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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on his mission to Brazil, from 6 to 17 June 1995, submitted pursuant to Commission on Human Rights resolutions 1993/20 and 1995/12

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INTRODUCTION

A. Purpose of the mission

1. In accordance with the mandate laid down in Commission on Human Rights resolutions 1993/20 and 1995/12 and by agreement with the Brazilian Government, the Special Rapporteur visited Brazil from 6 to 17 June 1995. The purpose of the mission was to obtain reliable information on the relations between the various ethnic and racial components of Brazil. Since Brazil is perceived by the international community as a positive example of ethnic and racial integration, that country was chosen primarily on the basis of the Special Rapporteur's comprehensive approach to the discharge of his mandate as he had indicated in his previous reports to the Commission and the General Assembly 1/ namely that contemporary forms and manifestations of racism and racial discrimination should be sought in the developed countries as well as in the developing countries.

2. On the face of it, this mission could have become a mere exercise in elucidating a situation that appears to be quite familiar and might have been presented as a reference model for countries facing the problem of racism and racial discrimination and seeking to manage their pluralism or cultural mixing. On the other hand, by immersing himself in the Brazilian social context, albeit temporarily, perhaps the Special Rapporteur could gain different insights or even a more objective understanding of the issue of racism and racial discrimination as it may arise in Brazil. With his experience in the study of Afro-Brazilian and Amerindian cultures (as a former programme specialist and later Director of the UNESCO Division for the study of Cultures, perhaps he could endeavour to bring a fresh approach to the understanding of a complex sociological context. Such complexity is itself the product of a specific economic, sociocultural and political history. This mission was therefore undertaken in a spirit of openness and sympathetic curiosity, against the background of contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

B. Chronology of the mission

3. The Rapporteur arrived in Brasilia on 6 June 1995 and travelled successively to Belem (State of Pará), Salvador (State of Bahia), São Paulo (State of São Paulo) and Rio de Janeiro (State of Rio de Janeiro).

4. In Brasilia, the capital of Brazil and seat of the Government and federal institutions, the Special Rapporteur had the honour to speak with Mr. Luiz Felipe Lampreia, Minister for Foreign Affairs; Mr. Nelson Jobim, Minister of Justice; and Mr. José Sarney, former President of the Republic, President of the Senate. He also met Mr. Cristovam Buarque, Governor of the Federal District of Brasilia; Mr. Edson Machado, Adviser to the Minister of Education; Mr. Antonio Augusto Anastasia, Executive Secretary of the Ministry of Labour; Mr. José Carlos Seixas, Executive Secretary of the Ministry of

Health and Mr. Joel Rufino dos Santos, President of the Palmares Cultural Foundation attached to the Ministry of Culture. He also held a working meeting with the congressional Human Rights Commission attended by deputies Nilmario Miranda, President of the Commission, Roberto Valadao, Domingos Dutra and Gil Ney Viaha. He also spoke with Senator Beni Veras, President of the Senate Social Affairs Commission. In the context of cooperation between functions and institution, the Special Rapporteur wishes to mention that he had a very instructive meeting in Brasilia with Mr. Lindgren Alves, Head of the Directorate of Human Rights of the Ministry of Foreign Affairs and member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and Mr. Paulo Sergio Pinheiro, Special Rapporteur on the human rights situation in Burundi.

5. In Salvador, capital of the State of Bahia, the Special Rapporteur had talks with several State authorities, including Mr. Paulo Ganem Souto, Governor, Mr. Luiz Antonio Vasconcellos Carreira, Secretary for the Plan, Science and Technology, and Mr. Edilson Souto Freire, Secretary of Education.

6. In São Paulo, the capital of the State of São Paulo, the Special Rapporteur met with Mr. Belisario dos Santos, Secretary for Justice and Public Security, Mr. Antonio Carlos Arruda, President of the Council for Black Community Participation and Development of the State of São Paulo and Mr. Dermi Azevedo, representative of the State of São Paulo to the Council for the Defence of Human Rights.

7. At all these places, the Special Rapporteur visited or received representatives of non-governmental organizations, whether community-based or not, working for the promotion and protection of human rights in general, on the combating of racism and racial discrimination in particular. Thanks to the sponsorship of the Centre for Cooperation for Grass-Roots Activities, he was able to visit the Pedreira and Lagartixa *favelas* on the outskirts of Rio. Those visits served to demonstrate that the *favelas* are symbols of the widespread social breakdown and racial divisions in Brazil as will be shown below.

8. During his visit to Brazil (the itinerary and a detailed programme of the mission are contained in the annex), the Special Rapporteur was assisted by an official from the Legislation and Prevention of Discrimination Branch of the Centre for Human Rights; he was also helped by two interpreters assigned to the mission by the Conference Services Division of the United Nations Office at Geneva.

9. The Special Rapporteur would like to convey his gratitude to the Brazilian authorities for their cordial welcome and openness, which facilitated his mission. It was with great interest that he took part in the working meetings with the federal and State institutions and with non-governmental organizations, with which he had valuable and very instructive exchanges, in an atmosphere of unfailing friendliness and support.

I. OVERVIEW OF BRAZIL

A. Historical, geographic, economic and social overview

10. Brazil is a federative republic comprising 25 states and one Federal District, Brasilia, divided into five major regions - North, North-east or Nordeste, Centre-west, South-east or Sudeste, and South (see Figure 1). 2/ It has a surface area of 8,511,966 km^2, which makes it the fifth largest country in the world.

11. Brazil was colonized by the Portuguese from 1500 after the Tordesillas arbitration, 3/ and became independent in 1822. Its history is marked by three successive economic cycles which, without fully explaining the complexity of Brazil's sociological, geopolitical and economic situation, provide us with analytical tools:

the sugar cycle (sixteenth and seventeenth centuries);

the gold cycle (eighteenth century);

the rubber, cotton and coffee cycle (nineteenth century).

These cycles have determined the settlement and organization of the country and have changed the regional balance according to the commercial importance of one or more crops and the economic emphasis at the time. From the sixteenth to the twentieth century, for example, the centre of the country moved from the North-east to the South-east and South whereas the North and Centre-west emerged as pioneer zones, a fact which had an impact on political and social relations and on the ethnic and racial geography of the country. The first cycle is particularly important to this study since it laid the bases for Brazilian society.

12. In the North, at the mouth of the Amazon, the first Portuguese encountered Indian peoples. Before subjecting and exploiting them, they cooperated with them in the trading of a redwood from the Amazon forest, the *pau brasil*, which was to give the country its name; it was not long before that product was supplanted by sugar. Sugar cane, which was introduced from the Indies, found the climate and soil in the North-east ideal, and it was in order to grow this crop, for which Indian labour was inadequate, that the Portuguese, in 1532, began the trade in African slaves from the Gulf of Guinea, Angola and Mozambique.

13. On the basis of sugar cane, which was the distinguishing feature of the first cycle, there arose an economic, social and geographic network that is still discernible in the structure of the North-east and influences the other regions of the country. This network supported an economic complex that grew up around the large sugar plantations, which were both agricultural and proto-industrial and took their name from the sugar mill (*engenho*) which was the hub of the plantation but was also linked to trade and the world market. The social structure, on the plantation itself, was also an unequal one, linking the *casa grande*, the master's house, and the *senzala*, the slaves' quarters, in a relationship of power, exploitation and patronage. One cannot

The five regions of Brazil,
the States and their capital cities

Source: Théry (Hervé): Le Brésil, Paris, Sao Paulo, Masson p. IO.

Figure 1

fail to mention the carnal ties between master and slave which produced the first people of mixed parentage and were the origin of one of the features of modern Brazilian society. 4/

14. It was this early period, with the mingling of Amerindian, European and African stock, that saw the beginnings of the demographic complexity of Brazil, characterized by a long process of miscegenation between these three population groups, while physiological miscegenation was largely the result of domination and at times rape, a cultural miscegenation also occurred. The dominant framework and the structure of production were European, but many cultural features of the subordinate groups became assimilated: the Indians' legacy was the growing of cassava, the use of the hammock and a large number of place names. The African introduced gardening and metalworking techniques, cooking, music and religions, which even today make the North-east a unique cultural aggregate in Brazil.

15. The gold cycle followed that of sugar, the price of which fell to a low point on world markets because of competition from British and French output. As a result, both free men and slaves were attracted to the mines in the State of Minas Gerais, in the South-east region, a process that contributed to the gradual decline of the North-east, symbolized by the transfer of the colonial capital from Salvador to Rio de Janeiro in 1763.

16. It was this period that saw the beginning of the dependency between the North-east and the South-east and South. As the North-east became progressively marginalized, the country's centre of gravity would move south, a trend that intensified with the expansion of coffee growing which would ensure the economic prosperity of the South-central area. The coffee cycle was not a delayed repetition of the sugar cycle from the point of view of plantation management since the slave system was being challenged and the abolition of slavery in 1888 was to lead to the replacement of slave labour by a wage-earning or contractual labour force, largely made up of European emigrants.

17. Some people take the view that the process of exclusion of Blacks, Indians and people of mixed parentage from the country's economic and social life began during this period - since nothing had been done to integrate the former slaves - and was intensified by the industrialization of the country (principally in the South and South-east in the twentieth century) and by the increasing numbers of immigrants from Europe, but also from Asia (especially Japan). By acquiring or receiving land and by obtaining skilled jobs or establishing businesses, these immigrants were to form a prosperous, predominantly white Brazil in the South-east and South, as opposed to the poor regions of the North and North-east, whose interbred populations came to swell the *favelas* of Rio and São Paolo. 5/ Regional imbalances, the product of a history of contrasts, have also engendered ethno-sociological imbalances.

18. The African contribution is particularly evident in the old plantation areas, where there had been a concentration of African slaves. The sugar cane cycle had left a large Black and Mulatto population in the North-east, especially Pernambuco and Bahia and in part of the South-east, Rio de Janeiro. These population groups are also found, to a less concentrated degree, in the State of Minas Gerais, where the gold and mining cycle had brought many slaves

and former slaves in the eighteenth century. Finally, the same phenomenon is found in the State of São Paolo, on the old coffee plantations closest to the coast, which prospered in the time of slavery; in that state, the African element of the population is occasionally strengthened by immigration from Bahia.

19. On the other hand, in the states of the South, Paraná, Santa Catarina and especially Rio Grande do Sul, the African element is so diluted that it is often hardly perceptible. There have never been many Blacks in Rio Grande do Sul, where the predominant activity, stock-raising, required a very small labour force and the harsh climate was not conducive to Black settlement. The population in that region is close to the purely European type. In the interbreeding that does exist, however, the Indian element is much more significant than the African; it has had a greater impact than colour on European facial features.

20. Similarly, people of African descent do not appear to be very numerous in western Brazil, or especially in the North, but the Indian racial type is found there in greater numbers than anywhere else, and the Portuguese-Indian mix, in the Amazon region in particular, is often the predominant type.

B. Political overview

21. Brazil's recent history has been marked by a succession of military dictatorships. From 1889, the date of the overthrow of the Empire, to 1982, when democracy was established, the military have had a very strong hold over the country's political life. The 1988 Constitution, the outcome of a hard-fought struggle by the Brazilian people, is manifestation of an unprecedented democratic revival; it guarantees the effective operation of the federal and local political institutions while safeguarding the people's rights and fundamental freedoms. Accordingly, the Government headed by President Fernando Henrique Cardoso, who was elected in October 1994, is endeavouring to reduce the social inequalities that threaten the stability of the State and to resolve the problem of access to land for large numbers of small farmers faced with the monopoly of land tenure by the major landowners.

C. Human rights overview

22. The 1988 Constitution guarantees civil and political as well as the generally recognized economic, social and cultural rights. Brazil is also a party to numerous regional and international instruments, including the American Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the Slavery Convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

23. Brazil's recent human rights situation, however, has featured massacres of street children - in particular the massacre of seven children of between 11 and 19 years of age in front of the Candelaria church in the centre of Rio de Janeiro in 1993 - by death squads with well documented links with

the regular law enforcement agencies; 6/ these events are not unrelated to the purpose of the mission. Other relevant situations are the conditions of detention for ordinary prisoners, whose uprisings have often been harshly put down and the disputes over land tenure, which often lead to massacres of peasants or Indians by militias in the pay of the landowners, or by pioneers. 7/

24. Finally, the Special Rapporteur's mission comes at just the right moment to update the information on Brazil available to the Committee on the Elimination of Racial Discrimination, since Brazil's last periodic report was in 1986.

II. RACISM AND RACIAL DISCRIMINATION THROUGH DENIAL

25. It is generally stated officially that there is no racism or racial discrimination in Brazil because the Constitution explicitly prohibits it and because miscegenation is a fundamental aspect of the Brazilian population and an essential component of the country's multiracial democracy.

A. Preliminary observations

26. The appearance of ethnic and racial cohesion in Brazil conceals substantial inequalities between Whites, Indians, people of mixed parentage and Blacks, which are a legacy of earlier times. The situation is exacerbated by the unequal distribution of wealth. Although biological and cultural intermingling can be seen as a factor conducive to integration and stability that has helped to curb social tensions, it is also a cause of social stratification and of ethnoregional imbalance.

27. With the advent of multiracial democracy, the Brazilian authorities appear to be resolved to tackle the ethnic and racial issue directly and to usher in a society based on the equal dignity of all of its members. The political will exists, and constitutional, legal and administrative steps have been taken to that end.

B. The Constitution prohibits racism and racial discrimination

28. Officially, "Racism does not exist in Brazil. Brazil is the country with the second largest number of Blacks in the world, after Nigeria. Brazil is a multiracial country and a multiracial democracy; it is not like the United States, or like South Africa under apartheid; it has no tradition of racial hatred". However, it is acknowledged that there does exist "economic, and even social discrimination, against Blacks, Indians and people of mixed parentage: these people are not discriminated against because they are members of particular ethnic groups, but because they are poor".

29. "This is not discrimination; it is a result of Brazil's history. Brazil shows no obvious signs of racial, ethnic, religious or ideological discrimination. This is why the Government emphasizes education for all, for the entire population and all the different social strata." It is also firmly pointed out that the Constitution prohibits and condemns racial discrimination in all its forms. Title I of the Constitution of 1988 8/ states that Brazil "constitutes a democratic State under the rule of law [which] is based [...]

on the dignity of the human being. [...]" (art. 1); "The fundamental objectives [of Brazil] are the following: I. To build a free, fair and mutually supportive society; [...] III. To eradicate poverty and marginalization and reduce social and regional inequalities; [...] IV. To promote the well-being of all, without prejudice as to origin, race, sex, colour, age or any other form of discrimination." (art. 3); "[Brazil] adheres to the following principles in its international relations: [...] II. The primacy of human rights; [...] VIII. Rejection of terrorism and racism [...]" (art. 4). Article 5 of the Constitution stipulates: "The law shall punish any discrimination that undermines fundamental rights and freedoms" (para. XLI); "The practice of racism constitutes an offence for which no statute of limitations shall be applicable and for which there shall be no release on bail; it shall entail a prison term as stipulated by the law" (para. XLII).

30. "The expression 'Negro', an official in the Department of Education explains, is not negative; children are taught to see that Black people exist and that that is the way things are. Other segments of Brazilian society are referred to similarly, such as 'Germans', 'Japanese', or 'Italians', of the 'German' or 'Japanese' community or colony. We say we are 'Brazilians'. The term 'Negro', for example, only becomes derogatory when it is accompanied by an adjective, as in 'the wandering Negro' or when Blacks are denied entry to nightclubs or employment; it can even be used in an affectionate and tender sense: 'mi negrigna', my little Negress, when speaking of one's lady-love."

31. Thus there is neither racism nor racial discrimination in Brazil: it is categorically prohibited by the Constitution. The discrimination is economic and social, a product of history; it has become structural. It would correspond to what is generally described today as *exclusion*. The International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), annex), indicates that "the term 'racial discrimination' shall mean any distinction, *exclusion*, restriction or *preference based on race, colour, descent or national or ethnic origin* which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, *on an equal footing, of human rights and fundamental freedoms* in the political, economic, social, cultural or any other field of public life" (art. 1, para. 1). Societies today are experiencing the phenomenon of exclusion, in Europe especially, but also in some countries of Latin America.

32. In Brazil, even though racial discrimination is prohibited by the Constitution and represents an offence that is not subject to a statute of limitations, even though it is denied as a racial phenomenon, it has to be acknowledged that what is generally considered to be mere economic and social discrimination is *exclusion* based on race, colour, descent or ethnic or national origin, aimed at Indians, Blacks and people of mixed parentage. As the eminent Brazilian professor and statesman, Cristovam Buarque, Governor of Brasilia, said in his meeting with the Special Rapporteur, it is "*apartançao sociais*" that conveys exclusion, i.e. the "social apartheid" experienced by indigenous people, Afro-Brazilians, people of mixed parentage and poor Whites in the North and the South. Many people with whom the Special Rapporteur spoke feel that racism and racial discrimination exist on a frequent, even daily, basis, but have become an ordinary feature of life.

C. Miscegenation and multiracial democracy

33. Official pronouncements refer to "the uniqueness of the Brazilian people" and emphasize the biological and cultural mix that is reflected in particular in the participation of large numbers of Brazilians of all origins in the Afro-Brazilian religions practised in the *terreiros* (*candomblé*, *macumba*, *umbanda*) and in the carnival. 9/ The Brazilian authorities prefer to speak of skin colour rather than race, by using the words *branco*, *pardo* and *preto*. They are fairly reluctant to tackle the racial question head-on, either because it is problematical and embarrassing or because they feel that the question does not arise. Miscegenation has created so many gradations of skin colour that it has become difficult to classify the Brazilian population according to race and to estimate precisely the size of the various ethnic and racial groups in the population.

34. The word *pardo*, which denotes people of mixed parentage as a group and refers to the colour of most of the population, characterizes the interbreeding among the three original races (Indian, Black and White) and excludes all terms referring to miscegenation from the official classifications: *Mulato*: White-Black interbreeding; *Mameluco* or *Caboclo*: White-Indian interbreeding; *Cafuso*: Indian-Black interbreeding.

35. In other words, the authorities have made a deliberate effort over time to replace the idea of race by that of colour. This was an attempt to resolve the racial issue, since the races had no recognition as such but merged to form a unique *people of a hundred subtle tones* over whom racial prejudice had no hold. This is why the annual Carnival in Rio de Janeiro with its splendid colours is regarded as expressing the Brazilian authorities' idea of national harmony better than any integrationist pronouncement. In its 1995 Carnival song, the Viraduro Samba School echoed this idea by referring to the amazement of French painter Jean-Baptiste Debret when he discovered Brazil in 1815 in the company of a French artistic mission:

> "Quel bonheur!
>
> Je suis venu de France à l'invitation du Roi
>
> porteur de mon art et j'ai été surpris de découvrir un paradis enchanteur, où Indiens, Blancs et Noirs vivent en parfaite harmonie raciale,
>
> mettant ainsi en évidence la nature profonde de ce pays tropical"
>
> [What bliss!
>
> I came from France at the invitation of the King
>
> bearing my art and surprised was I to discover an enchanted paradise, where Indians, Whites and Blacks live in perfect racial harmony,
>
> living proof of the true nature of this tropical land". 10/

36. Was the Special Rapporteur himself equally captivated? In reply, he feels it best to refer once again to the International Convention on the Elimination of All Forms of Racial Discrimination, whose relevant provisions are quoted above. Is social preference in Brazil not based on colour? Perhaps racial prejudice has been replaced by colour prejudice? Or is there not an ambiguous relationship between these two forms of prejudice?

III. MANIFESTATIONS OF CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION AND INCIDENTS

37. As the previous chapter attempts to explain, racism and racial discrimination in Brazil are not easy to pin down because they become lost among the complexities of the country's population and are influenced by official pronouncements. For some, these phenomena are "invisible" 11/ but remain present in the political, economic, academic and scientific fields. The Special Rapporteur sought manifestations of these phenomena in daily life, in education, employment, housing and the administration of justice. He turned his attention to police violence, the situation of women "of colour", violence against children, problems of access to land for indigenous people and the Black descendants of the founders of the *quilombos*. 12/

A. An ambivalent attitude towards miscegenation

38. Brazilians are said to feel no racial prejudice, although they apparently have a keen awareness of colour, which is reflected in an ambivalent attitude towards miscegenation and which barely conceals a certain *ideological preference for whiteness*. Miscegenation, which at one and the same time carries an integrationist message - "we are all half-castes" is a common statement - and is a basis for exclusion, appears as an extension of the denial of the presence of Blacks. 13/ The word "Negro" or even "Black" is offensive and it is courteous to treat people as being whiter than they actually are. In the 1990 census, the Brazilian Geographical and Statistical Institute (IBGE) thus identified more than 100 shades of colour which the individuals questioned used to describe themselves out of a desire *to distance themselves as far as possible from the colour black*. This has given rise to an identity crisis of such magnitude among Black people that certain members of the Pentecostal Church refuse to be described as Black or Mulatto. 14/ Blacks and Mulattos are virtually absent from Brazilian iconography and from the media, 15/ so much so that when, in 1995, the O Globo television channel for the first time broadcast a series featuring Mulattos and Blacks it was regarded as a major event. Several Mulatto and Black activists informed the Special Rapporteur that carnival is extremely important to Afro-Brazilian culture because it is the only time of the year when Blacks and people of mixed parentage can show themselves without attracting the disapproval with which they have frequently had to contend over the centuries.

39. Moreover, the correlation between social stratification and the different shades of skin colour is so close that it cannot be without significance. Otherwise, how could one account for the fact that, in a country whose authorities claim it is the "second black country in the world, after Nigeria", and in which people of mixed parentage make up the majority, the Special Rapporteur met no Blacks or people of mixed parentage in positions of

responsibility except in Parliament (there is a total of 11 Afro-Brazilian deputies out of 513 in Congress) and at the Palmares Cultural Foundation, whose purpose is precisely to restore the image of Blacks and to combat the discrimination from which they suffer? 16/

40. There is a colour hierarchy in Brazil and there seems to be little doubt that a very dark colour is a handicap to social advancement. It is difficult for a Black to become a senior civil servant; he will require far more talent and effort than if his skin were lighter. Brazil does not classify people into races on the basis of juridical definitions or scientific theories; it classifies them on the basis of their physical appearance and the colour of their skin. Thus, Brazilians are not divided among themselves because between the whitest White and the blackest Black there is a whole range of nuances that reduces friction. Nevertheless, there is a degree of structural segregation on account of economic and social conditions. Thus, what most separates so-called Coloured people from Whites is a difference in their standard of living and way of life; the class barrier, which is easy to discern, thus matches the very real but more subtle colour barrier.

B. Everyday racism and racial discrimination

41. Everyday racism and racial discrimination take the form of acts of harassment which accentuate the inferiority of Blacks. For example, in luxury buildings and apartment blocks, Blacks are asked to use only service entrances and lifts. A cartoon strip produced by the "Conselho de Desenvolvimento da Comunidade Negra" of the State of Bahia 17/ depicts how Blacks may be denied access to public places such as "high-class" nightclubs; in supermarkets, they are frequently suspected of theft; they may be refused a room in a luxury hotel. If a Black is noticed in a residential district at night by a police patrol he is immediately asked to present his identity documents and to justify his presence there, as Blacks are supposed to live only in the *favelas* and on the outskirts of towns.

42. Blacks are frequently harassed by the military and civilian police or by other law-enforcement agencies. Such harassment may extend to doubting that a Black can be a police officer: the experience of Alexandre Silva de Souza, an investigator with the Anti-Drug-Trafficking Division in the State of Pará, is a revealing case in point. In December 1994 in the town of Belem, this black police officer, who was on plain-clothes duty, got on to a bus and showed his police badge in order to be exempted from buying a ticket, as police officers are entitled to do. The driver then said to him "You don't look like a police officer, you look more like a bandit; that badge is a fake." Shortly after, the bus stopped in front of a prison (Sao José) where the driver called over to some military police, saying: "There's a Black in this bus who's pretending to be a police officer." Four soldiers got on to the bus and immediately started to beat up Alexandre de Souza who shouted that he was a police officer and that he would show them his identity documents. They then took him away and continued to beat him inside the prison. He was only saved by the arrival of a radio patrol policeman (Radio Patrulha) who took him away for an identity check to the police control office. 18/

43. Such practices can be explained by the generally negative image of Blacks within Brazilian society. Being black is synonymous with being poor or a criminal, which is in itself discriminatory. The disparity between the town centres where Whites live and the outskirts, between town centres and smart residential districts, and the *favelas* where most of the inhabitants are black, testifies to a certain type of spatial segregation. The subtle nature of methods of subordination and social control also permits the preservation of unequal social relationships which marginalized populations have apparently interiorized and accepted as having a kind of fatal inevitability. The fact that modern education has not been available to them has deprived them of the intellectual tools with which to assert themselves.

C. Education

44. At the annual World Bank Conference on Development in Latin America and the Caribbean, held on 13 June 1995 at Rio de Janeiro, the Brazilian First Lady, Mrs. Ruth Cardoso, criticized the Brazilian education system which she described as "discriminatory". She drew attention to the fact that education reproduced a "racist form of society". 19/ The discrimination experienced by Afro-Brazilians in education is part of the vicious circle of poverty in which many of them are trapped and which takes the following form: material poverty - low level of education, failure at school, lack of training, unemployment or unskilled work, low wages - material poverty.

45. There are in fact private schools for rich people that provide a better education than State schools with their huge classes, although Afro-Brazilians are unable to attend them for lack of means. There are those who believe that the Brazilian education system fails to take into account the presence, history and culture of Afro-Brazilians and tends to pass on to them a sense of inferiority. This is attributable, in particular, to the fact that teaching materials fail to portray Afro-Brazilians favourably: they are only mentioned as former slaves, servants or manual workers. Afro-Brazilian culture is presented as folklore. As a result, Black children are unable to identify with the education provided and do not enjoy attending school. There is a tendency to train them for football, music and the arts, in which, one is unhesitatingly informed, they excel. So what would be the point of trying to prepare them for anything else?

46. Among children aged from 10 to 14, 87.9 per cent of White children are able to attend school, 80.8 per cent of children of mixed parentage and 77.6 per cent of Blacks. 20/ Even if they obtain a place at school, many Black children are compelled to abandon their education and do odd jobs in order help their parents meet the family's needs.

47. There are also disparities in levels of illiteracy: although 18.2 per cent of the Brazilian over-15 population is considered illiterate, in 1992 the figure was 30 per cent among Blacks; in the North-east, it may be as high as 36.4 per cent. In 1988, 87 per cent of Brazilians who had completed higher education were White. Currently, 12 Whites out of 100 attend university whereas barely one Black out of 100 does so. 21/

D. Employment

48. Employment is one field in which there is overt racial discrimination. There is virtually a racial division of labour that prevents Blacks and people of mixed parentage from practising certain professions. Popular wisdom holds that a Black can only succeed in Brazil as a footballer or samba dancer. As a result, senior-level and intermediate positions (both in the public administration and in private enterprises) are held by Whites, followed by people of mixed parentage and Blacks, who, depending on the lightness of their skin, are managers, receptionists, cashiers, waiters, caretakers, domestic employees and bus-drivers or taxi-drivers. Occupational and social mobility are extremely low among Afro-Brazilians on account of the fundamental handicap of a lack of education and training. Even if he has the same qualifications as a White, an Afro-Brazilian will be discriminated against; wording such as "wanted: person of good appearance" in a job advertisement is also an indirect way of excluding Afro-Brazilians from certain jobs. In addition, in terms of wages, a White worker earns 2.5 times more than a Black worker and four times more than a female Black worker. 22/

E. Housing

49. The majority of Afro-Brazilians live in unhealthy premises and districts, without sewers, running water or electricity. They make up the majority of the inhabitants of the *favelas* which are built of makeshift materials on the outskirts of the major cities. Each year, during the rainy season, landslides carry away shacks belonging to poor families in the *favelas* perched on the hillsides, killing many people, most of whom are Afro-Brazilians. On 31 May 1995 a landslide killed 28 people in the Arraial do Retiro district in Salvador in the State of Bahia. Most homeless people who sleep in the streets of Brazil's big cities are Black or of mixed parentage.

F. The media

50. As a rule, advertising and the media only feature White people. On television channels, the vast majority of journalists are White, in contrast with the United Kingdom and the United States where television channels have a practice of multiethnic and multicultural participation.

G. The situation of coloured women

51. The Inter-American Trade Union Conference on Racial Equality, held in Salvador on 20 November 1994, declared that Black women receive the lowest salaries (four times lower than those of a White man), are employed in the most unhealthy locations, work a triple working day and face threefold discrimination. For these reasons, Black women are a barometer of Brazilian society: the degree of political evolution of Brazilian society is directly related to the political conquests of Black women. 23/

52. The vast majority of Black women are domestic servants (for example, in the State of Bahia 90 per cent of domestic servants are black and 80 per cent of them receive less than the minimum wage of 110 reals), 24/ nursemaids or samba dancers in nightclubs. They make up the majority of the informal sector (street vendors, for example). Many Black domestic servants are ill-treated

by their employers and suffer physical and moral violence. Black women have the lowest level of education. As a result of their lack of qualifications, but also because of racial discrimination on the labour market (job advertisements frequently require people to be "of good appearance") many of them become prostitutes.

53. It has also been found that more Black women are sterilized than White women. Some people believe that this method of contraception or family planning contributes to the gradual whitening of Brazil's population. 25/ According to data provided by the Brazilian Geographical and Statistical Institute for 1986, in the State of Bahia, 75 per cent of women who had been sterilized (aged between 15 and 40) were Black or of mixed parentage, while for the country as a whole the percentage is estimated to be 61.8. 26/

54. These women, who are often poor, naturally do not wish to have any more children because they are unable to provide them with a decent standard of living, but they are not offered any alternative means of contraception; however, they may even be sterilized without their knowledge when they give birth. They are also encouraged to accept sterilization by politicians who promise to help them if they are elected; there are also material incentives (money, food) to accept sterilization, and until 1995 employers could demand a medical certificate certifying that female workers had been sterilized. 27/ This fact is also confirmed by the observations of the ILO Committee of Experts on the Application of Conventions and Recommendations which, in its report to the eighty-second session of the International Labour Conference (June 1995) noted with regard to the application of Convention No. 111, Discrimination (Employment and Occupation) Convention, 1958, "that, despite the detailed information provided on administrative and statutory provisions to ban discrimination based on sex, the Conference Committee keenly regretted that Bill No. 229/91 (prohibiting employers from requiring a medical certification attesting to the sterilization of women workers, which constitutes discrimination on the ground of sex in respect of access to employment) has still not been adopted". 28/

55. According to the explanations obtained from the Ministry of Health, sterilization of women is not an official practice encouraged by the Government. Generally speaking, contraception, including sterilization, is a method which Brazilian women have adopted voluntarily. If many women resort to sterilization, that is because it is a simple and cheap method; those who resort to it do not always consider the consequences. Significantly, it is women from the poorest sectors of the population who use sterilization, but that does not mean that there is a sterilization policy targeted at Black women. The Government has had an act against mass sterilization adopted. 29/ The Act in question is Act No. 229/91, referred to above by the ILO Committee of Experts, which has now come into force.

H. Violence against children and child labour

56. Violence against children is one of the most serious problems Brazil has to face. It mainly affects street children of Black and mixed parentage. According to a study carried out by UNICEF and the Public Prosecutor's Office of the State of São Paulo into child murders, in 1991, out of a total of 307 victims, 42.35 per cent were White, 44.63 per cent of mixed parentage

and 12.05 per cent Black. 30/ In the State of Rio de Janeiro in 1993, "Judge Siro Darlan, responsible for juvenile delinquents in Rio de Janeiro, registered 1,152 violent deaths of minors, 60 per cent of which occurred in the town of Rio alone. The majority of the victims were Coloured male children". 31/ It is no easy matter to identify who is actually responsible for these murders, although members of the military or civilian police are suspected of belonging to death squads which are responsible for most of them. The investigation into the massacre at the Church of Candelaria, in Rio de Janeiro, in July 1993 revealed the involvement of police officers in child murders.

57. Another form of violence is sexual violence against adolescent girls, the vast majority of whose victims are of Black or mixed parentage. In 1990, the Children's Department of the State of São Paulo estimated that 6 million girls, i.e. 15 per cent of Brazil's adolescent population, had suffered sexual violence. This type of violence occurs at home or outside. Many minors are also prostitutes and are thereby exposed to violence.

58. Child labour is widespread and involves many children of Black or mixed parentage. In the South-east region, the percentage of children aged between 10 and 14 who work is as follows: White: 14.99 per cent; of mixed parentage: 19.96 per cent; Black: 20.56 per cent. 32/ These children are employed in agriculture and in a variety of workshops and factories. They also work as street vendors.

59. The problem of street children is rooted in poverty. They come from the poorest sectors of the population. It is among them that the highest numbers of AIDS victims are to be found. This is a deeply disturbing issue.

I. Land ownership problems

60. Access to land ownership is a problem that affects Indians and Blacks descended from the founders of the *quilombos*. 33/ Indians face serious problems of discrimination, exclusion and extermination by colonists, the *garimpeiros* and *madeireros* (mineral prospectors and timber exploiters) who invade their lands. In 1993, there were 43 homicides, 85 attempted homicides and 600 cases of death threats. 34/ Indians are the victims of a policy of ethnic genocide which they combat almost unnoticed, although they wish to acquire their human rights and dignity.

61. The Government maintains that the Constitution contains provisions relating to the allocation of land to the indigenous populations. Within five years, all the areas which initially belonged to them will be allocated to them in accordance with the revised Constitution; the latter does not recognize indigenous people as minorities, but as indigenous populations. In response to the conflicts between them and the big companies, the Government has decided to define the boundaries of their lands and to regulate mineral exploitation. In order to protect the indigenous population, the Government monitors entry to and departure from the territories of the Amerindians, using aircraft which take photographs every six hours. In June 1995, 49 million hectares were assigned to the Indian communities; only 11 per cent of the national territory remains to be distributed.

62. An effort has also been made at rehabilitation in order to assign or restore to Black communities from the *quilombos* the land on which they live or used to live. This land is sought after by big landowners and precious metal prospectors. Research is under way to locate the lands and define their boundaries, with the assistance of the Palmares Cultural Foundation of the Ministry of Culture. The aim is to provide legal security to the descendants of the slaves who formed the *quilombos* and who nowadays live on these lands, whose boundaries have not yet been set. They are reportedly small in area, but their restitution to the Black communities would provide the latter with symbolic recognition of their contribution to Brazil's historical development. At the time of the Special Rapporteur's visit a presidential decree was being drawn up to recognize the property rights of the *quilombo* communities to their land.

J. Anti-Semitism

63. The Special Rapporteur was informed that there was no anti-Semitism in Brazil. However, in the States of Paraná and São Paulo there are neo-Nazi groups made up of skinheads and punks who attack Jews, Blacks and people from the North-east. Further research has shown them to be unstructured groups imitating foreign movements. They have been disbanded by the police.

64. One case of anti-Semitism was none the less brought to the attention of the Special Rapporteur. The incident, which occurred in April 1995, involved an employee of the Electricians' Union in São Paulo, nicknamed Pezao, who said, referring to Dr. David Zylbersztajn, Secretary of Energy for the State of São Paulo, that "a little Jew is transforming the secretariat into a synagogue; he should start selling cloth; a Jew created the world and now another one wants to end it". 35/ After the President of the Electricians' Union and the person who made the statement had offered their apologies, Dr. Zylbersztajn decided not to lodge a complaint.

IV. GOVERNMENTAL MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION

A. From the denial of race to multiracial democracy

65. The 1980s marked a genuine change in the Brazilian authorities' attitude to ethnic and racial issues. Even though the principle of the singleness of the Brazilian people is not called into question, the multiplicity of its component races and ethnic groups is acknowledged; hence the assertion of multiracial democracy and the concern of the Brazilian authorities to "construct a free, just and mutually supportive society; [to] ensure national development; [to] eradicate poverty and marginalization and [to] reduce social and regional inequalities; [to] promote the well-being of all, without prejudice based on origin, race, sex, colour, age or any other form of discrimination (1988 Constitution, art. 3). The application of these provisions, which primarily concern Indians, persons of mixed parentage and Blacks, the poorest among the poor, will eventually help to integrate them more effectively into Brazilian society.

66. The appointment of Edson Arantes do Nascimento, better known by his nickname Pele, as Minister of Sport, is an integral part of this process of

transforming Brazilian society. Nevertheless, Pele recently levelled severe criticism at Brazil's political class and called on the Afro-Brazilians to take their fate into their own hands by voting en masse for candidates from their own community at the forthcoming legislative elections. 36/

B. Constitutional guarantees and legislation against racism and racial discrimination

67. The 1988 Federal Constitution contains strict provisions to punish racism. It is supplemented by a set of laws which prohibit racism and a variety of discriminatory practices, including incitement to racial discrimination and racist propaganda, and racism in the media and publications. The following information is taken from a communication from the Government of Brazil, dated 8 May 1995:

(a) Federal Constitution of 1988 (art. 5, XLII) prohibits the practice of discrimination, of whatever nature, like racism, which, having been previously considered to be a "contravençao" (a less serious offence) was reclassified as a non-bailable crime not subject to statute of limitations;

(b) Law 1930/51: includes among the "contravençoes penais" the practice of acts motivated by racial or colour prejudice;

(c) Law 2809/56: defines the crime of genocide and punishes the destruction, in whole or in part, of national, ethnic, racial or religious groups;

(d) Law 4117/62: establishes the Brazilian Code of Telecommunications, punishing the use of communications media for the promotion of discriminatory practices;

(e) Law 5250/67: regulates the freedom of thought and information, prohibiting the dissemination, by whatever means, of racial prejudices;

(f) Law 6620/78: defines the crimes against national security, among which those of incitement of hatred or racial discrimination;

(g) Law 7716/89: deals with crimes motivated by racial or colour prejudices, regulating, thus, article 5, XLII, of the Federal Constitution;

(h) Law 7437/85; punishes practices and acts arising from racial or colour prejudice, in particular in the provision of services or in access to public places;

(i) Law 8072/90: deals with the so-called heinous crimes, which include genocide, stating that amnesty, grace, pardon, bail and provisional release are not applicable to them;

(j) Law 8078/90: deals with consumer's protection, prohibiting misleading or discriminatory advertising as well as advertising that incites violence;

(k) Law 8081/90: defines the crimes and lays down the penalties applicable to discriminatory acts or acts originating from prejudices of race, colour, religion, ethnicity or national origin, practised by the media or by publications of whatever nature;

(l) Law 8069: establishes the statute for the child and the teenager, stipulating that no child or teenager will be the object of any form of discrimination.

68. However, the effectiveness of the laws has yet to be demonstrated because the police receive very few complaints and there are very few trials for racism or racial discrimination. The most frequent racist incidents are verbal attacks or insults which, however, according to the Minister of Justice, do not lead to complaints. When cases of racism are brought before the criminal courts, it is difficult to provide proof. Accordingly, the courts endeavour to provide redress for the moral injury suffered by the victim. It has been decided to establish a category of offence defined as "the offence of insult or moral injury involving racism" or "non-pecuniary injury". Thus, in São Paulo a Black woman was the victim of a racist insult in a supermarket: the case was brought before the court which imposed a penalty for the non-pecuniary injury she had suffered. However, the fact remains that the populations that suffer racism and racial discrimination are the most underprivileged; they lack education; they are ignorant of the law; in addition, they mistrust the courts. If they are reassured, they willingly cooperate in establishing the truth. Thus, at the initiative of the Government of the State of São Paulo, a Commissariat to combat racist anti-Black and anti-Semitic crimes has been established, with which the population willingly cooperates. For example, when a Black person looking for a home replies to an advertisement and is turned down, a White person is sent; if that person is accepted, a racist act is deemed to have occurred and those involved are punished. There is also a national secretariat for citizens which deals with measures to combat racism, particularly that affecting Blacks and Jews.

C. Administrative measures

69. The following administrative measures were brought to the attention of the Special Rapporteur. Brazil is a Federative Republic with 26 States, 4,491 municipalities and the Federal District. These units enjoy administrative and political autonomy. Thus, each one develops its own action with regard to combating discrimination. The following are examples of these actions:

(a) The Municipality of São Paulo, the country's biggest city, with a 24 per cent Black population, created, in September 1989, the Special Coordinating Office for Issues relating to the Black Population;

(b) The Federal Police was directed to monitor the activities of neo-Nazi groups. Inquiries have been initiated;

(c) The Government of the State of São Paulo established a police division specialized in racial crimes, which started functioning in June 1993, following the successful experience of the police divisions specialized in women;

(d) The Government of the State of Rio de Janeiro created, in September 1994, a police division specialized in racial discrimination.

The States of Bahia and São Paulo have also created councils for the participation and development of the Black communities to enable them to design and implement economic and social projects meeting their needs.

D. Constitutional guarantees relating to Indian lands

70. Concerning indigenous populations, the Federal Constitution of 1988 dedicated to them a specific chapter (Part VIII, chap. VIII), besides addressing the matter in several other constitutional provisions. The Union has the power to demarcate indigenous lands and to protect their goods, and also to legislate on indigenous rights. Disputes involving those rights are to be considered by federal judges, the Office of the Attorney-General having the duty to defend in court the rights and interests of the indigenous populations. It is worth mentioning too Law 5371/67, which established the National Indian Foundation (FUNAI) and Law 601/73, which established the Statute for the Indian.

V. INITIATIVES BY CIVIL SOCIETY

71. The fact that allowances are made for the specific needs of Indians and Blacks in the Constitution and in legislation is due to the political and social action of numerous community and non-community associations which have recovered their voice as a result of the coming of democracy.

72. Organizations such as the Movimento Negro Unificado are trying to raise the political awareness of Afro-Brazilians in order to improve their participation and their political representation. Numerous cultural associations, many of which are linked to the *terreiros candomblé*, *macumba* and *umbanda* - in particular Olodum and Ilê Aiyê (in Salvador da Bahia), Bambarê (in Belém), the Centro de Estudios e Defesa do Pará (CEDENPA), the Sociedade Ilê Asipa (Salvador da Bahia) are endeavouring, with very limited resources, to restore the pride of the Blacks by teaching them their history and their culture, and by providing children with a modern education in the schools they set up. Others are especially concerned with the advancement of Afro-Brazilian women (the Geledes in São Paulo); with street children (the Centro de Articulaçaoes de Populaçaoes Marginalizadas in Rio de Janeiro); the Casa Viva of Father Julio Renato Lancelotti which takes in children with AIDS in São Paulo and which the Special Rapporteur made a point of visiting; its remarkable work deserves encouragement. Mention must also be made of the Grupo Mulher e Educaçao Indigena (GRUMIN) of Rio de Janeiro for its activities on behalf of Indian women. Lastly, there is the National Human Rights Movement based in Brasilia and represented throughout the Federation which is opposed to violence in all its forms and vigilantly monitors respect for human rights by the organs of the State.

73. In the *favelas*, instead of waiting passively for assistance, the inhabitants have organized themselves to ensure supplies of water, electricity and food. In Rio de Janeiro, the Special Rapporteur went to the *favelas* of Largatixa and Pedreira, each of which is home to about 25,000 people: there he saw the work of a direct sales and solidarity project which had been launched by the People's Cooperation and Activities Centre which comprises a bakery, two shops selling essential goods and a sewing workshop.

VI. CONCLUSIONS AND RECOMMENDATIONS

74. At the end of his study, the Special Rapporteur notes that racism and racial discrimination in Brazil are not easy to pin down. These phenomena are subject to the vagaries of official statements. They are also concealed, to the point of being invisible, by biological and cultural intermingling. A degree of guile was necessary to draw from many of the official spokesmen a recognition of the existence of a cause-and-effect relationship between economic and social conditions, the marginalization and the poverty of Indians, people of mixed parentage and Blacks and the historical circumstances which underlie the origins of Brazil, in particular slavery and colonization. Only a political will stemming from a clear-sighted and courageous analysis of reality can break the vicious circle of racial discrimination through negation and make Brazil the great nation it aspires to be in the twenty-first century. Accordingly, the Special Rapporteur puts forward the following recommendations to the Brazilian authorities:

1. In the absence of special programmes for the benefit of disadvantaged ethnic and racial groups of the kind known in the United States as "affirmative action" (which several official spokesmen regarded as impracticable because the people of mixed parentage and the Blacks are not minorities and because economic and social problems affect all Brazilians without distinction of race), priority should be given to the education of the poorest who would be identified in terms of a minimum income level;

2. The situation of the street children should be studied as a matter of urgency in order to reintegrate them in normal social systems (schools, apprenticeship institutions) and enable them to escape crime and violence; in the same context, efforts should be made to disband the semi-official police organizations and the death squads which murder street children;

3. The Brazilian Government should undertake a major survey of the problem of the sterilization of Black women and on the effectiveness of the implementation of Act 229/91;

4. Campaigns should be conducted through the media and through the education system in order to improve the image of Blacks in Brazilian society and give Blacks, Amerindians and people of mixed parentage an awareness of their dignity as human individuals, to enable them to assert themselves and to participate fully in the life of the nation;

5. Vigorous action should be taken to eliminate racial discrimination in the field of employment, together with measures for the support of women of mixed parentage and Black women in particular, through an appropriate and determined process of education.

Notes

1/ E/CN.4/1994/66, paras. 9-31 and A/49/677, paras. 18-37.

2/ The Rapporteur will use either French or Brazilian terminology for subdivisions of regions or towns.

3/ In 1494, the kings of Spain and Portugal signed the Treaty of Tordesillas to define the territories under their respective sovereignty. This treaty established a notional line to the west of the Cape Verde islands. All the land to the east of that line belonged to Portugal and the land to the west belonged to Spain. Thus a small part of South America belonged to Portugal and was progressively enlarged to form Brazil.

4/ The sociologist Gilberto Freyre described this economic and social organization in his famous book Casa Grande y Senzala, 5th edition, Rio de Janeiro, José Olympio Editora, 1946.

5/ Communication dated 22 June 1995 from Mr. Marcelo Dias, Deputy in the Parliament of the State of Rio de Janeiro, President of the Commission on Human Rights of that State.

6/ See Initial Brazilian Report concerning the 1966 International Covenant on Civil and Political Rights, original version of the initial report of Brazil submitted to the Committee on Human Rights on 2 March 1995 which the Minister for Foreign Affairs transmitted to the Special Rapporteur during his mission; reference will be made in particular to the paragraphs dealing with children and adolescents (see document CCPR/C/81/Add.6, paras. 99-104). See also Ministerio Publico do Estado de São Paulo, Homicidios de crianças e adolescentes. Una contribuçao para a administraçao da justiça criminal em São Paulo, São Paulo, June 1995; Centre for the Mobilization of Marginalized Populations (CEAP), The killing of children and adolescents in Brazil, Rio de Janeiro, 1988; International Federation for Human Rights, Les assassinats d'enfants des rues à Rio de Janeiro et São Paulo, survey mission, December 1994.

7/ See the initial report of Brazil (CCPR/C/81/Add.6, paras. 90-107).

8/ Constitution of the Federative Republic of Brazil, 1988, edition updated in 1994 [text of 5 October 1988 incorporating amendments No. 1/92 to 4/93 and No. 1/94 to 6/94], French translation by J. Villemain, updated by J.F. Cleaver, Brasilia, Federal Senate, 1994.

9/ The "terreiro" is a place of worship serving an area roughly corresponding to a parish, according to Mr. Edson Lopes Cardoso, member of the Movimento Negro Unificado (discussion of 8 June 1995).

10/ The reference is to King Don Joao VI of Portugal who took refuge in Brazil following the occupation of his country by the armies of Napoleon.

11/ According to Mr. Euzébio Cardoso, Vice-President of the Olodum Cultural Association during a discussion on 12 June in Salvador da Bahia.

12/ During the period of slavery, revolts by African slaves were numerous, violent and organized, and fugitive Blacks organized independent communities, the *quilombos*, which were in some cases very long-lasting and were put down only after full-scale wars. Such was the case of the most famous of these communities, the Quilombo do Palmares, in the State of Alagoas, which kept its independence for 100 years before being destroyed.

13/ This was a legacy of Catholic theology which, as early as the sixteenth century, declared Blacks, Indians, people of mixed parentage, and also Jews, to be impure races. It must also be recalled that the first purpose of inter-breeding was not to achieve racial fusion but to increase the number of slaves at the disposal of an owner. On this subject see Maria Luiza T. Carneiro, O racismo na historia do Brasil. Mito e realidade, São Paulo, Editora Atica, 1994, p. 11.

14/ Discussion with Mr. Hernani Da Silva, of the Sociedade Cultural Missoes Quilombo, on 15 June in São Paolo.

15/ One only has to look at the Brazilian television channels and advertisement posters to realize that Blacks do not figure in the broadcasting and advertising media, except in football matches and variety programmes.

16/ Discussion with Mr. Joel Rufino dos Santos, Director of the Palmares Cultural Foundation, on 8 June 1995.

17/ Secretaria de justiça e direitos humanos, Conselho de Desenvolvimento da Comunidade Negra, A Lei e o Dierito Do Negro, vol. I, Salvador, November 1994.

18/ The facts are recounted in greater detail in the Jornal do Sindpol, the newspaper of the Civilian Police Public Service Union of the State of Pará, 3 January 1995. The Special Rapporteur also spoke to the victim to obtain confirmation of the facts.

19/ See the article entitled "Ruth critica modelo educacional", A Tarde, 14 June 1995.

20/ Figures published by Secretaria Nacional de Pesquisa e Desenvolvimento da Igualdade Racial (Força Sindical) in Cadernos de Formaçao. Sande e Meio Ambiente. Existe "Democracia Racial" Sem Igualdade Salarial? (n.d.)

21/ Figures made available by Mr. Domingos Dutra, Labour Party Deputy in the Federal Parliament, member of the Commission on Human Rights.

22/ Figures given in Cadernos de Formaçao, op. cit. (see note 20), p. 10.

23/ Ibid., p. 13.

24/ Information received from the Women's Municipal Council of Salvador da Bahia at the meeting of 12 June 1995.

25/ A communication from Deputy Domingos Dutra, referring to a study by the demographer E. Berquo, at the working meeting with the Congressional Commission on Human Rights, 8 June 1995.

26/ Information provided by the Women's Municipal Council of Salvador da Bahia at the meeting of 12 June 1995.

27/ According to the discussion which the Special Rapporteur had with representatives of the Movimento Negro Unificado in Brasilia on 8 June 1995.

28/ Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4 A), Geneva, ILO, 1995, p. 314, para. 2.

29/ Summary of the discussion which the Special Rapporteur had with Mr. José Carlos Seixas, Executive Secretary of the Ministry of Health on 8 June 1995.

30/ Public Prosecutor's Office of the State of São Paulo, Relatorio de pesquisa aplicada. Homicidio de criança e adolescentes, São Paulo, June 1995, p. 44.

31/ International Federation for Human Rights, Les assassinats d'enfants des rues à Rio de Janeiro et à São Paulo, Survey mission report, December 1994, p. 4.

32/ Communication from Mr. Marcelo Dias, Deputy at the Legislative Assembly of the State of Rio Janeiro, President of the Commission on Human Rights.

33/ See note 12 above.

34/ Communication from Federal Deputy Gilney Viana at the meeting of 8 June with the Commission on Human Rights of the Federal Congress.

35/ Excerpt from the newspaper O Estado de São Paulo of 21 April 1995 (fascicle No. 2) communicated to the Special Rapporteur by the Israelite Federation of the State of São Paulo.

36/ Pele made this statement on Saturday, 18 November when receiving a delegation from the Movimento Negro Unificado on the occasion of the celebration of the "300 years of immortality" of Zumbi do Palmares, the Black hero who resisted the invasion of Quilombo do Palmares which was destroyed in 1695 by the Portuguese (see note 12). See the article entitled "Pele's new goal to be President", Sunday Telegraph, 19 November 1995.

ANNEX 1

PROGRAMME OF THE SPECIAL RAPPORTEUR'S MISSION TO BRAZIL
6-17 June 1995

Tuesday, 6 June	(Brasilia)
	Arrival in Brasilia
Wednesday, 7 June	(Brasilia)
10.30 a.m.	Discussion with Mr. Edson Machado, Adviser to the Minister of Education
3.00 p.m.	Discussion with Mr. Antonio Augusto Anastasia, Executive Secretary of the Ministry of Labour
3.30 p.m.	Discussion with Mr. Nelson Jobim, Minister of Justice
4.00 p.m.	Discussion with Mr. José Eguren, Deputy UNDP Resident Representative
Thursday, 8 June	(Brasilia)
9.00 a.m.	Meeting with Mr. Edson Lopes Cardoso and Mrs. Jaura Silva, members of the Movimento Negro Unificado
11.30 a.m.	Discussion with Mr. José Carlos Seixas, Executive Secretary of the Ministry of Health
Noon	Discussion with Senator Beni Veras, President of the Commission for Social Affairs of the Senate
1.00 p.m.	Meeting with Mr. Nilmario Miranda, deputy, President of the Commission on Human Rights of Congress, and Mr. Roberto Valadao, Mr. Domingos Dutra and Mr. Gilney Viana, deputies, members of the Commission
3.30 p.m.	Discussion with Mr. Luiz Felipe Lampreia, Minister for Foreign Affairs
4.15 p.m.	Discussion with Mr. Paulo Sergio Pinheiro, Special Rapporteur on the situation of human rights in Burundi, and with Mr. Lindgren Alves, Chief of the Directorate of Human Rights, Ministry of Foreign Affairs, member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
6.00 p.m.	Discussion with Mr. Joel Rufino dos Santos, President of the Palmares Cultural Foundation (Ministry of Culture)

Friday, 9 June	(Brasilia)
10 a.m.	Discussion with Mr. Nilo Diniz and Mr. Ricardo Murta, adviser and Private Secretary to Senator Mrs. Marina Silva
11.30 a.m.	Discussion with Mr. José Sarney, President of Congress
3.00 p.m.	Discussion with Mrs. Valeria Getulio de Brito, National Movement for Human Rights
5.00 p.m.	Discussion with Mr. Cristovam Buarque, Governor of the Federal District of Brasilia
9.00 p.m.	Departure for Belem
Saturday, 10 June	(Belem)
9.00 a.m.	Meeting with Mrs. Edilamar Conceiçao, Centro de Estudios e Defesa do Negro do Pará (CEDENPA), Mr. Paulo Carvalho, Mr. Gean, Mr. Alexandre de Souza and Mr. Domingos, Grupo de Estudiantes Universitarios Negros (GEUN), and with Mrs. Maria Aparecida Santos Corrêa and Mr. Brasilino Corrêa, Bambarê-Arte e Cultura Negra
4.00 p.m.	Departure for Salvador da Bahia
Sunday, 11 June	(Salvador da Bahia)
	Free time
Monday, 12 June	(Salvador de Bahia)
8.00 a.m.	Discussion with Mr. Pedro Agostinho da Silva, Ethnologist, Professor at the State University of Bahia
9.00 a.m.	Discussion with Mr. Paulo Ganem Souto, Governor of the State of Bahia
10.30 a.m.	Meeting with *Mae* Hilda, *Terreiro* Ilá Axâ Jitolu, Mrs. Arani Santana Santos and Mr. Jonatas Conceiçao da Silva, Ilê Aiyê Cultural Association
3.00 p.m.	Discussion with Mr. Euzébio Cardoso, Vice-President, and Mr. Walmir França Santos, Cultural Affairs Adviser, Olodum Cultural Association
6.00 p.m.	Meeting with Mrs. Gleide Gurgel, President of the Municipal Women's Council of Salvador, and with Mrs. Yolanda Pires, Mrs. Marlene Batista, Mrs. Rebeca Lerravalle, Mrs. Jurenilda Carvalho, Mrs. Breuzo Maria Oliveira, Mrs. Uliraci Matilde, Mrs. Mary Fancia Costa, Mrs. Ana Montenegro, Mrs. Lucia Guedes Rias, and Mrs. Maria del Carmen Fidalgo, members of the Council

Tuesday, 13 June	(Salvador de Bahia)
10.00 a.m.	Meeting with Mr. Deoscoredes M. dos Santos, *Mestre Didi* of the Ilê Asipa Society and with Mrs. Juana E. dos Santos, Sociedad de Estudos da Cultura Negra no Brasil (SECNEB)
3.00 p.m.	Discussion with Mr. Luiz Antonio Vasconcellos Carreira, Secretary for the Plan, Science and Technology, State of Bahia
6.00 p.m.	Discussion with Mr. Edilson Souto Freire, Secretary for Education, State of Bahia
Wednesday, 14 June	(São Paulo)
10.20 a.m.	Departure for São Paulo
2.00 p.m.	Discussion with Mr. Guilherme dos Santos Barbosa, Anthropologist, Centro Afro-Brasileiro de Estudos e Pesquisas Culturais (CABEPE)
6.00 p.m.	Meeting with Mr. Belisario dos Santos, Secretary for Justice and for Public Security, State of São Paulo, Mr. Antonio Carlos Arruda, President of the Council for Black Community Participation and Development of the State of São Paulo, and Mr. Dermi Azevedo, representative of the State of São Paulo to the Council for the Defence of Human Rights
Thursday, 15 June	(São Paulo)
10.00 a.m.	Discussion with Mrs. Roseli Fischmann, Professor at the University of São Paulo
11.30 a.m.	Discussion with the Reverend Antonio Olimpio de Sant'Ana, Executive Secretary of the National Ecumenical Council for Combating Racism
2.00 p.m.	Discussion with Father Julio Renato Lancelotti, Casa Viva
4.00 p.m.	Meeting with Mr. Flavio Jorge, Soweto - Organizaçao Negra, and Mrs. Solimar Carneiro, Coordinator of Geledes - Instituto da Mulher Negra
6.30 p.m.	Meeting with Mr. Hernani Silva, of the Sociedade Cultural Missoes Quilombo, and Padre Luiz Fernando de Oliveira, Quilombo Central
Friday, 16 June	(Rio de Janeiro)
Noon	Departure for Rio de Janeiro

3.00 p.m.	Meeting with Mr. Ivanix dos Santos, Mr. Ele Semog and Mrs. Malu Carvalho, Centro de Articulaçaoes de Populaçoes Marginalizadas
5.00 p.m.	Discussion with Eliane Potiguara, Grupo Mulher e Educaçao Indigena (GRUMIN)
6.00 p.m.	Meeting with Mr. Alex Ferreira Magalhaes, National Adviser to the National Movement for Human Rights, and Miss Célia Regina do Nascimento Barbosa, Centre for Cooperation and Community Activities
Saturday, 17 June	(Rio de Janeiro)
2.00 p.m.	Visit to the *favelas* of Pedreira and Largatixa
5.00 p.m.	End of mission

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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 12

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolutions 1993/20 and 1995/12

Addendum

Mission to Germany

GE.96-14244 (E)

INTRODUCTION

A. Purpose of the mission

1. Pursuant to Commission on Human Rights resolutions 1993/20 of 2 March 1993 and 1995/12 of 24 February 1995, and by agreement with the German Government, the Special Rapporteur undertook a fact-finding mission to the Federal Republic of Germany from 18 to 27 September 1995.

2. It should be recalled that German reunification was accompanied by violent outbursts of xenophobic sentiment and anti-Semitic acts fomented and perpetrated by extreme rightist organizations and neo-Nazi cells. Between 1991 and 1993, xenophobically and racially motivated incidents, particularly targeting asylum-seekers and other foreigners, increased markedly. The most serious incidents took place: (a) in Hoyerswerda, in Saxony, in September 1991, when skinheads supported by some of the local population attacked and set fire to a migrant workers' hostel housing some 150 Mozambicans and Vietnamese; (b) in Rostock (Mecklenburg-Pomerania) where, over five nights in August 1992, rightist extremists supported by more than 500 people from the town destroyed a hostel inhabited by asylum-seekers, principally Gypsies; (c) in Mölln (Schleswig-Holstein) where arson on 23 November 1992 caused the deaths of three individuals of Turkish origin; (d) in the same town in May 1993, when incendiary bombs thrown at a Turkish family's home led to the deaths of five people, including one woman and two children; (e) in Berlin, where the holocaust memorial in the Tiergarten was destroyed by a bomb on 30 August 1992.

3. Material forwarded to the Special Rapporteur also alleges that some members of the police forces have been guilty of xenophobic behaviour and indulged in the ill-treatment of foreigners. 1/

4. Mindful of the way the situation had developed since 1994, the Special Rapporteur wished to examine the underlying causes of the phenomena observed and to acquaint himself with the steps taken by the Federal Government and authorities in the Länder and with what had been done by society at large. As the incidents also raised the question of how foreigners integrate into Germany, the Special Rapporteur inquired into the ways found of tackling this problem.

B. The mission

5. Having been welcomed in Bonn, the provisional capital, the Special Rapporteur travelled far and wide through Germany, meeting senior officials responsible for combating racism and racial discrimination at the Federal and Länder levels. He visited the Free Hanseatic Cities of Bremen and Hamburg in the north, Berlin and Dresden (Saxony) in the east; Stuttgart (Baden-Württemberg) in the south; and Frankfurt and Wiesbaden in the east-central region of Hessen.

6. Among others, the Special Rapporteur met Mr. Willi Hausmann, the Federal Minister for Family Affairs, Senior Citizens, Women and Youth; Mr. Ingo Kober, the State Secretary at the Federal Ministry of Justice; Mr. Helmut Schäfer, the Minister of State and Commissioner for Humanitarian Aid and Human Rights

at the Federal Foreign Office; and Ambassador Graf von Bassewitz, the head of the Directorate for Human Rights and Humanitarian Aid at the Federal Foreign Office. He also met a number of members of the Bundestag (Federal Parliament) and Commissioners for Foreigners, whose names appear in the programme of the visit (annex I).

7. The Special Rapporteur also had an exchange of views with Mr. Rüdiger Wolfrum, an expert on the Committee on the Elimination of Racial Discrimination, and with Mr. Wilhelm Heitmeyer and Mr. Roland Eckert.

8. He also had working sessions with representatives of non-governmental organizations, and with leading religious figures invited with the assistance of the German United Nations Association and the German Committee of United Nations Educational, Scientific and Cultural Organization (UNESCO).

9. While in Bremen and Stuttgart the Special Rapporteur visited asylum-seekers' homes and hostels. In Hamburg and Berlin, visits to the St. Georg Multicultural Community Centre, the "Multi Kulti" studios at radio SFB4 where programmes for foreign communities are put together, the Werkstatt der Kulturen (culture workshop) and the House of the World's Cultures, showed him what was being done in a variety of areas to promote multiculturalism and rapprochement between Germans and foreigners.

10. During his visit the Special Rapporteur was assisted by an official from the Legislation and Prevention of Discrimination Branch of the Centre for Human Rights and two interpreters assigned to the mission by the Conference Services Division of the United Nations Office at Geneva.

11. The detailed mission programme, including the names of everyone he interviewed is annexed to this report.

I. ORIGINS OF XENOPHOBIA AND RIGHTIST EXTREMISM AND RELATED INCIDENTS

12. A number of official explanations have been put forward for the outbreak of xenophobic violence. The main ones appear to be the economic and social upheaval in the east of the country following reunification; the massive influx of asylum-seekers; and the aggressiveness of extreme rightist organizations.

A. Reunification and disarray in the former German Democratic Republic

13. One consequence of German reunification was to expose the inhabitants of the east of the country to things of which they had previously been ignorant, and to engender disarray in the face of economic and social change and growing unemployment. Having long been inward-looking, the inhabitants of eastern Germany perceived foreigners as competing for jobs and jeopardizing any improvement in their economic and social situation. These fears were then exploited by extreme rightist organizations and neo-Nazi cells, which directed the frustrations of a proportion of the region's unemployed youth, lacking a social identity or prospects for the future, towards foreigners.

B. Exasperation at the fringes of society following the massive influx of asylum-seekers

14. Another explanation put forward, exasperation at the fringe of the German population provoked by the influx of immigrants, asylum-seekers and of "pseudo-asylum-seekers" 2/ following the political changes in eastern Europe and the crisis in Yugoslavia. Some analysts suggest there was a "social protest" springing from "diffuse sentiments and the notion of a general threat, and the disadvantageous position of 'Germans' vis-à-vis 'foreigners', particularly asylum-seekers". 3/ This notion was fed in particular by the housing situation and State subsidies and transfers to asylum-seekers, and heightened by the fear of competition and loss of status. The xenophobia engendered in this setting then spread beyond asylum-seekers to encompass all foreigners. The support lent by some of the inhabitants of Hoyerswerda and Rostock to the arsonists is significant in this regard.

15. Between 1989 and 1993 the number of asylum-seekers in Germany rose from 121,318 to 322,599. In 1990 and 1991, Germany received around 58 per cent of the individuals seeking asylum in the European Community. By 1992 that proportion had risen to around 79 per cent. 4/ The increase was because German legislation, more flexible than in other European countries, made it attractive to asylum-seekers. Until its amendment in 1993, article 16 of the Basic Law, drawn up in 1949 in a cold war setting, granted political refugee status almost automatically to any asylum-seeker. It is thought that many asylum-seekers, described as "economic refugees", sought to take advantage of this constitutional provision to settle in Germany. The conditions they were offered (housing and financial assistance) provoked xenophobic reactions in the Länder and townships concerned and gave rise to an impassioned public debate on revision of the right to asylum.

16. But the large-scale presence of asylum-seekers is only part of the explanation for the xenophobic violence, because that violence chiefly affected the most visible applicants (Gypsies and Africans, although they were not the majority of asylum-seekers) and foreigners who had lived in Germany for many years (Turks, Vietnamese, Mozambicans and Angolans). In fact, the wave of violence was attributable rather to agitation from the extreme right, which used the presence of foreigners as a pretext for spreading its racist ideology and operating in broad daylight.

C. The aggressiveness of the extreme right

17. Ideologically, racist nationalism is a feature of rightist extremism. A second vital component is the notion of an élite race. In such an ideology, it is not a shared historical, cultural and linguistic background that determines whether one belongs to a people or nation, but only common biological origins. The people and the nation are the wellspring of the élite race. This ideology underpins xenophobic violence against asylum-seekers and other foreigners as a means of cleansing the German nation of undesirable elements. The arson in Mölln is of heavy symbolic significance in this regard.

18. By the end of 1994, the German authorities responsible for upholding the Constitution had 82 organizations and associations of individuals under

observation for extreme rightist activity (78 in 1993). 5/ Compared with the previous year, the membership of such associations and individuals not belonging to any group had visibly fallen by 7,900, to 56,600 (as against 64,500 in 1993). The number of militant rightist extremists, at approximately 5,400, was down slightly on the 1993 figure of 5,600. It included the extreme rightist skinheads belonging to virtually unstructured regional- and local-level associations. 6/

19. This slight decline in the number of militant rightist extremists was doubtless due to the many steps taken by the German State, as will be seen below.

20. It should also be noticed that the extreme rightist parties have seen their popularity among the electorate decline after the good showing they made in 1991 and 1993 by exploiting the subject of an invasion of economic refugees. They account for at most 4 per cent of the various electoral constituencies (federal, local, communal and European). 7/

II. VIOLENT DISPLAYS OF RACISM AND XENOPHOBIA 8/

21. In 1994, the German police recorded 7,952 breaches of the law allegedly or demonstrably motivated by rightist extremism (as against 10,561 in 1993), including 1,489 acts of violence (1993: 2,232) and 6,463 other breaches of the law (1993: 8,329); 3,941 were motivated by xenophobia (1993: 6,721), and of those 860 were acts of violence (1993: 1,609). It will thus be seen that breaches of the law presumably or demonstrably motived by rightist extremism declined by 25 per cent from the levels seen in 1993.

22. The decline in xenophobically motivated violence has come about thanks to action by the State and vigorous moves by the police against extreme rightist organizations and neo-Nazi cells. This action will be discussed in detail in the following chapter.

23. By treating arson as homicide or manslaughter and sentencing those guilty of serious violence to long terms in prison, the courts - and the media, which provided detailed reports on the matter - have had a deterrent effect on potential offenders.

24. There were 1,366 anti-Semitic incidents in 1994. This is an increase since 1993 (656 breaches of the law). But the increase was in non-violent crimes such as demonstrations, incitements to racial hatred, insults, propaganda and vandalism; the number of acts of violence declined from 72 to 41, i.e. by 43 per cent.

25. The large increase in other breaches of the law stems from the fact that agitation and incitement to hatred were up by 130 per cent. One reason is that, unlike the preceding year, there were a number of mailings of multiple letters containing incitements to racial hatred. These statistics reflect the number of inquiries launched because of the many complaints (some 190).

26. Other offences (including insults and vandalism without major violence) also increased disproportionally, to 9.5 times the previous level.

III. ACTION BY THE FEDERAL GOVERNMENT AND AUTHORITIES IN THE LANDER

27. The German authorities have worked hard to restore the image of a peaceful, liberal, cosmopolitan and democratic Germany. Large-scale action has been taken, particularly in the fields of prevention and punishment, but also in amendments to the law. A variety of similar, concrete steps have been taken in parallel by the Länder and the communes.

A. Political and intellectual reaction to extremism, xenophobia and violence

28. All activities at the Bund (federal), Land (provincial) and communal levels emphasize political action to address anti-constitutional trends in extremist circles on the fringes of political life. Such political activity includes extensive information campaigns on the nature and scope of the dangers inherent in political extremism. While it is emphasized that the Federal Republic of Germany has for decades been a solid democracy grounded in the Basic Law, the risks and threats that violence, extremism, intolerance and xenophobia, fervid nationalism and fundamentalism represent are brought to the fore.

29. Public information activities consist, on the one hand, in making the public aware of the values of human dignity, freedom, equality and solidarity, and on the other hand, in fostering determination to defend the Federal Republic's liberal, democratic regime.

30. Such political and intellectual action covers the following four points:

(a) Protection of the Constitution through information, by means of booklets dealing with extremism, violence, terrorism and xenophobia and through seminars for teachers, the authors of scholarly journals, journalists, and people responsible for adult education;

(b) An information campaign against extremism and xenophobia;

(c) Social research projects concerned with internal security;

(d) The causes of, and action to combat, violence.

31. As regards internal security, particular priority has been given to a joint information campaign by the Federal and Land ministries of the interior against extremism and xenophobia. The campaign was launched in March 1993 under the slogan "Understanding and respect for human dignity - no to xenophobia".

32. The campaign had two objectives: to inform and to motivate. It was aimed particularly at young people, but also at the public at large, and dealt with the reasons, underlying causes and extent of violence, xenophobia and extremism. Young people were also encouraged to reflect on their own behaviour towards foreigners and the opportunities they had to confront violence and xenophobia.

33. As part of this campaign, information material was produced including hand-outs for schoolchildren and teachers, a brochure for young people entitled "Basta-Nein zur Gewalt" (enough - no to violence) accompanied by a teaching manual, a computer game entitled "Schwarze Schatten", (black shadows), posters, stickers, badges, pennants and T-shirts. Advertisements were placed in publications for young people and television spots were broadcast against xenophobia with a view, among other things, to encouraging young people to behave fairly towards foreigners and show them some understanding.

34. The Federation and the Länder distributed some 370,000 posters around the country bearing the message "Violence is not the right choice", to promote the right choice - understanding. This information campaign will be continued, with a new poster bearing the slogan "Rapprochement, not violence" which will also be widely distributed. Other priorities have consisted in cooperation with the RTL television series Gute Zeiten-Schlechte Zeiten (Good times - bad times) which has afforded a means of informing young people and encouraging them to become actively involved, and the "Pop 1995" tour organized by Deutsche Bahn Ag (German railways) in 45 towns throughout Germany, which reached a climax on 30 September 1995 with pop music festivals in 17 towns.

35. The campaign has been well received by the public at large. This can be seen in the great number of requests for information and propaganda material and the many offers of help. Additionally, many people have supported the campaign with activities of their own, for example, distributing material, publishing advertisements free of charge, wearing T-shirts bearing the logo Fairständnis (a pun on "fair" and the German word for "understanding") at sporting events, setting up anti-violence groups and doing things to help their foreign fellow-countrymen.

36. The Ministers of the Interior in the Länder are also firmly committed to countering xenophobia, having adopted a declaration (the Saarbrücken Declaration of 9 October 1992) outlining efforts to prevent xenophobia in schools (see annex II).

A. Dissolution of extreme rightist organizations and prohibition of xenophobic and racist activities and propaganda

37. Firm action has been taken and rigorous moves made, by both the federal authorities and the authorities in the Länder, against extreme rightist organizations and neo-Nazi cells. A total of 10 extreme rightist organizations have been banned: five that operated throughout Germany by the Federal Ministry of the Interior, 9/ and five others, whose activities were restricted to certain Länder, by the ministries of the interior of those Länder. 10/

38. The Office for the Protection of the Constitution (Landesamt für Verfassungsschutz) maintains a constant watch on the activities of the extreme right and systematically punishes breaches of the law.

39. Mention should be made here of the work being done in Saxony by the special police group Soko Rex. This is a commission set up in 1991 by the

Ministry of the Interior of Saxony to combat the extreme right and xenophobia. Its membership ranges between 15 and 50 highly qualified police officers from the west of the country, particularly Bavaria and Baden-Württemberg. It should be explained, as regards this cooperation between Saxony and other Länder, that the unification process disrupted police services in the eastern Länder; this is also why there were acts of violence without a rapid and effective reaction from the security forces.

40. Soko Rex has adopted the twofold strategy of putting extreme rightist circles under constant pressure by searching the headquarters of their organizations and their members' homes, mounting surveillance on their activities and punishing illegal acts while at the same time taking preventive action among young people to stop them coming under the sway of the extreme right. It maintains close relations with the general public, which is kept regularly informed of its activities. The group has arranged prevention campaigns during which posters bearing the messages "Nazis and violence stand no chance" and "A bit more humanity" have been distributed.

41. This strategy has cut xenophobic crime by 75 per cent in Saxony. The Special Rapporteur visited Soko Rex headquarters and could see how effective it was being from the large quantities of racist literature and weapons (firearms and others) seized from extreme rightist movements.

IV. ACTION BY SOCIETY AT LARGE

42. Like the federal and local authorities, society at large, under the leadership of the Commissioners for Foreigners, the churches, a variety of associations and private businesses (notably Bertelsmann 11/), has reacted against the wave of xenophobic violence that swept across Germany. Germans have firmly rejected xenophobia, racism and rightist extremism. A good many organizations and citizens have joined the campaign against xenophobia and rightist extremism, forming "chains of light" to protect asylum-seekers' hostels. Millions of demonstrators have marched in protest against this and other forms of discrimination.

43. In November 1992, following the incident in Rostock, 350,000 people took part in a demonstration in Berlin. On 6 December 1992, 300,000 people marched in Munich against intolerance, anti-semitism and extreme rightist violence. On 31 January 1993, over 1 million people paraded in demonstrations against racism and xenophobia in the Land of Baden-Württemberg. It is estimated that 3 million people have taken part in at least 50 public demonstrations throughout Germany.

44. In late September each year, during intercultural week (foreign fellow-countrymen week), thousands of people do their bit to make life together better for Germans and foreigners. In 1995 the rallying call was "Together for justice". This week of good works is prompted by the churches. It is also supported at the local community level by trade unions, the communes, foreigners' associations and grass-roots initiatives. The Special Rapporteur attended the opening of foreign fellow-countrymen week at an ecumenical service in Berlin Cathedral on Saturday, 23 September 1995.

V. PROBLEMS WITH THE INTEGRATION OF FOREIGNERS

45. Beyond the steps taken to put an end to racist and xenophobic violence, there remains, in the medium term, the burning question of the integration of foreigners, since the highest German authorities (including Chancellor Helmut Kohl) continue to say that Germany is not a destination for immigration despite the presence of some 6.5 million foreigners (8 per cent of the population) including 1.5 million refugees. 12/

46. Between 1955 and 1970, the Federal Republic of Germany used foreign labour to rebuild its economy, recruiting workers from Mediterranean countries in particular (Turks, Italians, Greeks, Spaniards, Portuguese, Moroccans, Tunisians and Yugoslavs) which it called "guest workers" (Gastarbeiter), because the intention was that they would return home in the fullness of time.

47. Today Germany has 1,850,000 Turks (28.6 per cent of the foreign population); 916,000 people from the former Yugoslavia (14.1 per cent); 558,000 Italians (8.6 per cent); 346,000 Greeks (5.3 per cent); 286,000 Poles (4.4 per cent); 168,000 Romanians (2.6 per cent); and 134,000 Spaniards (2.1 per cent).

48. About 60 per cent of these foreigners have lived in the Federal Republic for 10 years or more. More than two thirds of the foreign children and teenagers were born there. While Europeans, particularly those from the European Union, are relatively well integrated, the same is not true of the Turks, Poles and Romanians (gypsies) who face discrimination in housing, employment, the provision of services (insurance companies often refuse to ensure vehicles and other property belonging to Turks), and access to public places (young immigrants are refused access to restaurants and discothèques). 13/

49. The Government's current policy on integration is of recent date and suffers from ambiguity since Germany, despite the facts, does not consider itself to be a destination for immigrants. The policy has three parts:

"- integrating the foreigners who have lived (in the country) for a long time, including foreign workers;

- stemming continuing immigration from countries outside the European Community;

- granting assistance for voluntary return and reintegration into the home country." 14/

50. Efforts to stem immigration require caution, in particular in the case of people from the southern hemisphere, since they have not migrated spontaneously but rather as the result of imbalanced, not to say chaotic, international relations. Witness the thousands of Vietnamese (60,000), Mozambican and Angolan workers taken on by the German Democratic Republic under the heading of cooperation among "fraternal" socialist countries, who were not properly taken into account during reunification. The only prospect open to them is repatriation, although their links with their home countries have weakened with time. Under an agreement on financial assistance between

Germany and Viet Nam, signed on 9 June 1992, almost 40,000 Vietnamese workers have been obliged to return home. There remain around 20,000 whose situation is unstable because of the very limited duration of the work permits granted them (three to six months). They risk being refused the right to stay in the country if they lose their jobs. Some have already gone underground because of their precarious situation, and are accused of smuggling cigarettes as their only source of income.

51. One of the contradictions in Germany's policy on integration stems from the naturalization law which still rests on the principle of jus sanguinis, while the majority of European countries have opted for jus sanguinis and jus soli combined. German law thus allows nationality to be conferred automatically on people of German origin from the former Soviet Union and Eastern Europe, but imposes stricter conditions, including renunciation of their original nationality, on the children of immigrants, including Turkish children who were born in and have long been living in Germany. The refusal to recognize dual nationality except in rare instances is an obstacle to full integration. Another problem with integration which is both difficult and complicated relates to quarrels among Turks over the Kurdish question, which often gives rise to violence within Germany.

52. Despite the contradictions in its immigration and integration policies, Germany has considerable assets, in the form of its Commissioners for Foreigners, working in favour of the integration of foreign population groups. The Commissioners are highly dedicated and competent people working at both the Federal and the Land level.

53. Notable efforts have been made by the Federal Commissioner for Foreigners, and the Commissioners for Foreigners in Hamburg (see annex III) and Berlin (annex IV). One innovation worthy of note has been made by the Police Department in the city of Frankfurt, where three Commissioners for Foreigners (one Turkish woman, one Turkish man and a Moroccan man) have been appointed to improve or facilitate relations between the police and the communities concerned.

54. The Intercultural Council in Germany (Interkulturellerat in Deutschland e.V.), founded in August 1994 and composed of equal numbers of foreigners and Germans, also helps to bring about rapprochement between native Germans and foreigners. It is committed, independent of extreme events, to combat racism and xenophobia over the long term, producing publications (brochures, posters and pamphlets) every year on symbolic dates such as 21 March (International Day for the Elimination of Racial Discrimination), 3 October (German Unity Day) and 10 December (Human Rights Day), suggesting action to be taken, engaging in public relations, through statements in the press, on current topics, and submitting petitions and claims to political bodies.

V. CONCLUSIONS AND RECOMMENDATIONS

55. The Special Rapporteur would like to emphasize how valuable his visit to Germany, outlined here, was. It enabled him to assemble a large body of documentation which he hopes he has been able to distill despite the shortages of human and material resources he continues to face. It also allowed him to

have very rewarding discussions with representatives of the Government and non-governmental organizations. He now knows exactly what has come of efforts to combat rightist extremism, xenophobia and racism. In many respects, this outcome is laudable.

56. It is none the less true that the integration of foreigners in Germany remains a problem and that the rigid official policy on immigration, within the narrow framework of the European Union, could profitably be reviewed. The Special Rapporteur therefore reiterates here the recommendations he made in his principal report (E/CN.4/1996/72, paras. 24 and 25):

(a) Efforts still need to be made to change mental attitudes in favour of acceptance of a multi-ethnic, multi-cultural German society;

(b) Further consideration should be given to applications for asylum in order to limit, as far as possible, the hasty nature of the "airport procedure" particularly vis-à-vis asylum-seekers from the Southern hemisphere who are automatically assimilated to illegal immigrants;

(c) Living conditions in the holding centres should be improved and the refoulement of supposedly illegal immigrants should be done humanely;

(d) A more humane solution than refoulement should be found for the Vietnamese and Mozambicans who used to work under contract in the former German Democratic Republic and whose status has been made precarious by reunification;

(e) Lastly, a law should be passed against racism, anti-Semitism and xenophobia.

Annex I

PROGRAMME OF THE VISIT OF THE SPECIAL RAPPORTEUR
TO THE FEDERAL REPUBLIC OF GERMANY

(18-27 September 1995)

Monday, 18 September 1995 (Bonn)

12.15 Arrival at Bonn

15.30 Meeting with Mr. Willi Hausmann, State Secretary, Federal Minister for Family Affairs, Senior Citizens, Women and Youth

17.30 Meeting with Mr. Ingo Kober, State Secretary, Federal Ministry of Justice

19.30 Dinner at the Invitation of Mr. Helmut Schäfer, Minister of State and Commissioner for Humanitarian Aid and Human Rights at the Federal Foreign Office

Tuesday, 19 September 1995 (Bonn)

9.00 Meeting with Mr. Schelter, State Secretary, Federal Ministry of the Interior, Mr. Rupprecht, Director and Mr. Morié, Inspector of Police Forces of the Federal States

12.00 Meeting with Mr. Ignatz Bubis, Chairman of the Central Council of Jews in Germany

14.30 Meeting with Ms. Cornelia Schmalz-Jacobsen, Member of the German Bundestag and Federal Government Commissioner for Foreigners

16.00 Meeting at the Bundestag

Ms. Christa Nickels (MP, Alliance 90/The Greens), Chairwoman of the Petitions Committee

Mr. Rudolf Bindig (MP, Social Democratic Party), Speaker of the Subcommittee on Human Rights and Humanitarian Aid

Mr. Willfried Penner (MP, Social Democratic Party), Chairman of the Home Affairs Committee

Mr. Horst Eylmann (MP, Christian Democratic Union/Christian Social Union), Chairman of the Legal Affairs Committee

19.00 Departure from Cologne/Bonn airport for Hamburg

Wednesday, 20 September 1995 (Hamburg, Bremen)

Hamburg

9.00 Meeting with former Hamburg Minister Mr. Günter Apel, Commissioner for Foreigners

10.00 Visit of the German-Foreign St. Georg Multicultural Community Centre

10.30 Meeting with Mr. Danke, Deputy Mayor of the Hanseatic City of Rostock and Senator for Youth, Health and Social Affairs, as well as Mr. Richter, Commissioner for Foreigners of the Hanseatic City of Rostock

11.30 Meeting with Mr. Henning Vosherau, Mayor of the Free Hanseatic City of Hamburg

12.00 Working lunch at the invitation of the Commissioner for Foreigners of Hamburg

14.00 Departure for Bremen by car

Bremen

16.30 Welcome by Mr. Henning Scherf, Bürgermeister of the Free Hanseatic City of Bremen, followed by a meeting with Mr. Hans-Christoph Hoppensack, Councillor at the Department for Women, Health, Youth, Social Affairs and Environmental Protection, Mr. Dagmar Lill, Commissioner for Foreigners of the Free Hanseatic City of Bremen, and a representative of the Central Organization of Foreigners' Cultural Association in Bremen (DAB)

17.30 Visit to a residential quarter for refugee families in a Bremen district; talks with representatives of the inhabitants and staff

18.50 Departure from Bremen airport for Stuttgart

Thursday, 21 September 1995 (Stuttgart)

8.30 Working breakfast with Mr. Manfred Walz, Head of Directorate-General II of the Ministry of State, responsible for internal affairs

9.30 Meeting at the Ministry of the Interior with:

Mr. Erhard Klotz, head of the Ministry (Chief of Cabinet)

Mr. Erwin Hetger, State Chief of Police

Mr. Volker Hass, City Chief of Police

Mr. Helmut Rannacher, President of the State Office for the Protection of the Constitution

Ms. Gabriele Müller-Trimbush, Mayor for Social Affairs in Stuttgart

Mr. Feige, head of Division at the Ministry of Interior

11.15 Visit to a hostel for asylum-seekers in Esslingen

12.30 Working lunch at the invitation of the Ministry of the Interior of Baden-Württemberg, represented by Mr. Erhard Klotz, head of the Ministry

14.00 Meeting with representatives of non-governmental organizations:

Mr. Talat Alici, Koordinierungsrat der türkischen Vereine in Baden

Mr. Ersin Ugursal, Deutsch-Türkische Gesellschaft e.V. Stuttgart

Mr. Yavuz Dedegil, Koordinierungsrat der Türken in Baden

Mr. Baier Winfried, Interessengemeinschaft Ausländischer Mitbürger in Baden/Württemberg

Ms. Mechthild Schürner and Mr. Bose, Diakonisches Werk der EKD, Stuttgart

Mr. Verner Baumgarten, Arbeitskreis Asyl, Stuttgart

Mr. Tim Kuschnerus, EKD, Hannover

19.05 Departure from Stuttgart for Berlin by air

Friday, 22 September 1995 (Berlin)

8.30 Meeting with Mr. Manfred Harrer, Director-General at the Ministry of Labour and Social Affairs

10.00 Meeting with Ms. Barbara John, Senate Commissioner for Foreigners

12.30 Meeting with Mr. Dieter Heckelmann, head of the Berlin Department of the Interior

13.45 Working lunch at the invitation of the Berlin Senate, represented by Mr. Armin Tschoepe, State Secretary of the Department of Social Affairs

15.45 Meeting with Mr. Friedrich Voss, Director of the "Multi Kulti" programme of SFB4 broadcasting station

16.45 Visit to the "House of the World's Cultures", welcome by Ms. Wiegand-Kanzaki, Secretary-General. Thereafter, visit to the "Multi Kulti" studios of SFB4 broadcasting station

Saturday, 23 September 1995 (Berlin)

9.00 Meeting with representatives of non-governmental organizations:

Ms. Karin Hopfmann, Antirassistisch-Interkulturelles Informations Zentrum Berlin (ARIC)

Mr. Kenan Kolat, Türkischer Bund in Berlin-Brandenburg e.V.

Mr. Ali Fathi, Verein Iranischer Flüchtlinge

Ms. Van Son Irrgang, Vereinigung der Vietnamesen in Berlin-Brandenburg

Mr. Peter Finger, Antirassistische Initiative

Mr. Klaus Pritzkaleit, Arbeitsgemeinschaft Christlicher Kirchen

Ms. Heidi Bishcoff-Pflanz, SOS-Rassismus Berlin

Sunday, 24 September 1995 (Berlin)

16.00 Visit of "Werkstatt der Kulturen"

19.00 Departure for Dresden by car

Monday, 25 September 1995 (Dresden)

9.00 Meeting at the Saxon State Ministry of Culture with:

Mr. Wagner, Secretary of State

Mr. Runch, head of Division

10.30 Meeting with Mr. Erich Iltgen, President of the Saxon Landtag

11.00 Meeting with Mr. Heiner Standig, first Vice-President of the Saxon Landtag and Commissioner for Foreigners

12.30 Working lunch at the invitation of the Saxon Landtag

14.00 Meeting with Mr. Peter Raisch, President of the State Criminal Police Office

15.00 Meeting with Ms. Mathilde Koller, President of the State Office for the Protection of the Constitution and Mr. Boos, Deputy to the President

19.35 Departure for Frankfurt/Main by air

Tuesday, 26 September 1995 (Frankfurt/Main, Wiesbaden)

9.00 Meeting with Mr. Gerhard Bökel, Hessen Minister of the Interior and for Agriculture, Forestry and Environmental Protection and Mr. Wolhard Hoffman, President of the Police Department and the Commissioner for Foreigners of the Frankfurt Police Department

11.00 Meeting with Ms. Wolf-Almanasreh, head of the Department of Multicultural Affairs

13.45 Departure for Wiesbaden by car

14.30 Welcome by Mr. Klaus Peter Moeller, President of the Hessen Landstag

15.30 Meeting with:

Mr. Ozan Ceyhun, Director of the Ministry Office for Immigrants, Refugees and Foreign Employees

Mr. Murat Cakir, Chairman of the Working Group of Foreigners Advisory Committees in Hessen

Mr. Jürgen Mikseh, Commissioner for Intercultural Affairs of the Protestant Church in Hessen and Nassau

18.00 Departure for Bonn by car

Wednesday, 27 September 1995 (Bonn)

8.30 Meeting with Ms. Ulrike Grünrock-Kern, Public Relations Officer, Bertelsmann AG

9.15 Meeting with representatives of the Catholic and Protestant Churches:

Mr. Joachim Gaertner, Deputy Plenipotentiary of the Council of the Protestant Church in Germany to the Federal Republic of Germany and the European Community

Prelate Paul Bocklet, Representative of the German Bishops' Conference

10.30 Meeting with representatives of non-governmental organizations:

Ms. Gigdem Akhaya, Zentrum Für Türkeistudien

Mr. Kostas Papas, Präsident Bundesarbeitsgemeinschaft der Immigrantenverbände (BAGIV)

Mr. Jürgen Schlicher, Informationszentrum für Rassismusforschung

Ms. Firtina Ciler, KOMKAR-Verband der Vereine aus Kurdistan

Mr. Vu Quoc Dung, Internationale Gesellschaft für Menschenrechte

Mr. Bulent Kandaz, Türkischer Elternverein

Mr. Norbu, Bürgerrechtskomittee, Boll-H

Mr. Barth, Arbeiterwohlfahrt

Ms. Klissenbauer, Missionszentrale der Franziskaner

Ms. Angela Grossman, Terre des Hommes

Ms. Brigitte Riohmani, SOS-Rassismus. Action Courage

Ms. Leuniger, ProAsyl

Mr. Manquel Tejeda, World University Service (INUS)

15.00 Round table talks with Mr. Rüdiger Wolfrum (Heidelberg), Mr. Wilhelm Heitmeyer (Bielefeld) and Mr. Roland Eckert (Trier)

17.00 Concluding talks with representatives of the Government of the Federal Republic of Germany under the chairmanship of Ambassador Graf von Bassewitz, head of Directorate for Human Rights and Humanitarian Aid at the Federal Foreign Office

Annex II

DECLARATION OF SAARBRÜCKEN, ADOPTED BY THE STANDING CONFERENCE OF MINISTERS OF EDUCATION AND CULTURAL AFFAIRS, ON TOLERANCE AND SOLIDARITY

Considering the new escalation of violence in Germany, the Standing Conference of Ministers of Education and Cultural Affairs hereby declares:

Human dignity is inviolable. Nothing can justify acts of violence. Recently such acts have been directed against foreigners, minorities and the weak within our society; they thus strike at the heart of our State, committed to democracy and the rule of law. Whoever sets fire to hostels for asylum-seekers, whoever applauds, openly or in secret, wreckers and arsonists, thereby turns his back on the community of democrats. No unsolved problem and no abuse can justify recourse to brutal violence.

The recent violent excesses bid defiance to the police and the law, but also to culture and education. The ministers and senators responsible for education and cultural affairs are therefore resolved to encourage and support any initiative calculated to encourage socially cohesive behaviour at school and in society. That implies, in particular, that we:

Conduct a credible policy of respect for other cultures and responsibility towards this one and only world;

Create and preserve living environments that will give young people and adolescents a feeling of well-being and something to look forward to; and

Reinforce the values of tolerance and solidarity within the younger generation.

Already by 29 November 1985 the Standing Conference of Ministers of Education and Cultural Affairs had drawn up recommendations concerning cultural understanding with our fellow citizens from abroad. At its plenary session of 10 and 11 October 1991, in Dresden, it forcefully condemned all tendencies to xenophobia and all its implications in terms of acts of violence. The Standing Conference again invites all teachers, in Germany to intensify their commitment to coexistence based on understanding between foreign and German children and adolescents in order to overcome hatred of foreigners and the violence it engenders. What are most needed in this regard are measures that will bring people together and deepen their mutual understanding.

Here are some examples of such measures:

Class and school celebrations that focus on the culture of fellow pupils from other countries;

Twinnings and exchanges of letters with schools and pupils abroad;

School neighbourhood aid for our fellow citizens from abroad;

Visits to hostels for asylum-seekers;

Singling out of pupils and classes that show particular commitment to tolerance and solidarity.

Such measures are also calculated to help reduce the existing forms of latent violence at school.

The Länder will exchange among themselves the results of their experiments in this sphere and the information available to them on this subject.

Left to itself, however, school would be unable to cope with this task of overcoming xenophobia and violence. The ethical principles of our State, enshrined in the Constitution, must also be expressed in the life of the family and home and be the touchstone of any political action. The media bear a particular responsibility in this regard: among teenagers, especially, radio and television have a wealth of possibilities of encouraging tolerance and solidarity. The Standing Conference will support all initiatives aimed at combating xenophobia and violence through targeted information and popularization.

9 October 1992

Annex III

CHARACTERISTICS OF HAMBURG'S POLICY IN REGARD TO ALIENS AND REFUGEES

1. Make-up of the foreign population

1. The number of persons not of German nationality living in Hamburg is currently about 270,000, representing in round figures some 15 per cent of the resident population. The groups most strongly represented comprise about 70,000 Turks, 33,000 persons from the former Yugoslavia, about 20,000 from Poland, about 15,000 from Iran and nearly 11,000 from Afghanistan, to mention only the most important groups. In all, the aliens residing in Hamburg represent 184 nations.

2. A noteworthy development is the approximately 80 per cent increase in the foreign population within a space of 15 years.

3. Particular stress should be laid on the presence, among the aliens living in Hamburg, of a group of 31,000 persons whose resident status, according to the current definition, is temporary. Specifically, this group is composed of about 11,500 refugees from the former Yugoslavia, about 14,000 asylum-seekers whose cases are under examination, and 6,000 de facto refugees (persons who have not applied for asylum or whose applications have been rejected but who, for humanitarian reasons, are nevertheless provisionally authorized to stay in the Federal Republic).

2. Integration policy

2.1 Objectives

4. The policy of the Senate of the Free Hanseatic City of Hamburg in regard to aliens aims in particular at facilitating by special services the social integration of aliens who have been living legally and for many years in Hamburg and at progressively eliminating the obstacles to de jure and de facto equality. In pursuance of this policy, the Senate accords very special attention to means of countering xenophobic tendencies and social discrimination against aliens.

5. Special services are available for the welfare of aliens who, like refugees, enjoy a right of temporary stay in Hamburg.

2.2 Special integration services available

6. Apart from the provision of schooling for children of aliens in the Hamburg schools, special measures outside the framework of regular teaching are designed for the advancement of children of immigrants. There exist 900 teaching posts in connection with such measures, and to them must be added in particular the social counselling services made available to aliens by charitable associations, by the confederation of German workers' unions and by the organizations to promote social intercourse between Germans and aliens that are financed from public funds. Such activities are as a general rule concentrated in areas where there is a high proportion of non-Germans in the

population with a view to furthering mutual understanding and cohabitation between Germans and aliens. The services offered by the various organizations promoting social intercourse are available to all Hamburg's non-German inhabitants.

7. Their main activities are: language courses, social counselling, organization of spare-time activities, educational and cultural services, services for children, for adolescents and in particular also for women, evening information and discussion sessions, and festivities.

8. The organizations that promote meetings between Germans and aliens are each allotted 3.5 permanent supervisory posts and an average annual budget of DM 500,000.

9. In pursuance of Hamburg's cultural policy, the "foreign cultures" department allocated in 1995 from its annual budget (DM 450,000) the funds required to subsidize 150 cultural projects concerning 30 nations. The function of such projects is the preservation, development and presentation to the public of the cultural heritage of immigrants, and they thus contribute to promoting intercultural dialogue within the city. Such events constitute a major factor of integration inasmuch as they reinforce the aliens' own cultural identity and enable the German population to learn about other cultures. Hamburg's cultural policy thus makes a major contribution to the fight against racist and xenophobic tendencies in society.

3. Expenditure

10. Apart from the cost of the general work to promote integration (for example costs of schooling, kindergartens, services in aliens' mother tongues and general social services), which is hard to estimate, the city of Hamburg devotes to the financing of special integration activities about DM 7 million, which is used for the operation of a social counselling network and of 10 organizations to promote meetings between Germans and aliens, for subsidizing foreign cultural and national associations, for promoting the culture of aliens in general and for the continuing occupational training of foreign workers.

11. The funds allotted annually by Hamburg to cover the living costs of refugees and the cost of special services for them are extremely large, amounting currently to DM 220 million (not counting the investments on housing).

12. For the accommodation of asylum-seekers and refugees from former Yugoslavia, Hamburg made available about 24,500 places in the form of tents, containers and rooms in hotels and boarding houses, together with floating residences where asylum-seekers are housed upon arrival. Planning to meet requirements and the design and erection of decent and socially acceptable lodgings represents an extremely complex and expensive task inasmuch as, to cope with the problem of refugees arriving in unpredictable numbers, with major peaks, account has to be taken of economic possibilities and of the limited land areas and premises available, while also avoiding conflicts with the population and among the refugees themselves and taking into consideration local political interests.

4. Activities directed against xenophobia and right-wing extremism

4.1 The Commissioner for alien's affairs

13. In 1990 the Senate appointed a commissioner for alien's affairs, with the task of advising it on its policy for integration and assimilation of aliens, especially those living on a long-term basis or for considerable periods in Hamburg, and of helping to foster mutual understanding between the German and non-German populations. To this end, the Commissioner is responsible for:

Representing the interests of aliens living in Hamburg and acting as counsellor in difficult cases;

In conflict situations, acting as peacemaker, i.e. functioning as mediator between Germans, aliens and aliens' organizations on the one hand, and the authorities and social groups on the other;

Cooperating with associations, trade unions, churches, guild chambers, organizations that promote meetings between Germans and aliens, business associations and other official and social groups and institutions;

Advising the Senate on questions of principle relating to the general policy concerning aliens, and more particularly on its projects and programmes in that sphere,

Contributing by a public relations exercise to rationalizing discussion on the political conditions for integration of aliens and to facilitating cohabitation between Germans and aliens;

Influencing administrative actions in the direction of the foregoing objectives.

14. Public relations work is the most important instrument for the information of non-Germans and of the German population. In this the Commissioner for aliens' affairs performs a multiple function. By his media work, he seeks to inform the non-German population about their legal situation, their possibilities and prospects within a predominantly German population, and the services available to promote integration in the Free Hanseatic City of Hamburg, but also on their duties as an integral sector of society. He thus encourages aliens to use the possibilities open to them of making a contribution in the social and political spheres. At the same time, he tries to provide the German population with objective information on the legal and social situation of aliens in Hamburg. He strives to eliminate prejudices by adopting a position in keeping with reality. He gives non-German individuals and groups the chance to present themselves in their own cultural and social context. The purpose of all this is not only to give the German population a more informed perception of these aspects, but also to preserve the cultural identity of national or ethnic groups and promote their development in an open society.

15. Press releases and other publications and public events enable the Commissioner for aliens' affairs to influence public opinion. He operates within the framework of his directives and intervenes when necessary in public discussion.

16. A large part of the public relations work done by the Commissioner for aliens' affairs is devoted to activities with a multiplier effect. He offers seminars and training courses dealing with various political and legal aspects of immigration by aliens and refugees and with the trend towards xenophobic and far-right leanings in certain social groups. Their purpose is to help committed citizens or persons performing relevant functions to influence public opinion in their turn.

17. The operational resources available to the Commissioner for aliens' affairs, in particular for his public relations work, amount to about DM 230,000 charged to the annual budget of the city of Hamburg.

4.2 Domestic and security policy

4.22 Xenophobic crimes and offences

18. In latter years Hamburg has not seen any spectacular xenophobic crimes. Generally, moreover, the total number of offences of this kind is relatively small in comparison with the other Länder of the Federal Republic. The restraint shown by the media, energetic intervention by the security bodies, and the deterrent effect of many sentences passed have contributed to a reduction in the number of cases. Consequently, what experience had shown in other Länder, namely that events of major importance combined with aggressive reporting by the media lead to an increase in the number of cases (the imitation effect), has not been reflected in Hamburg.

19. The number of offences motivated by xenophobia or right-wing extremism that were committed in Hamburg declined between 1993 and 1994 (-27 per cent). The absolute figure for incidents in 1994 was 155. In present circumstances a further reduction of about 20 per cent can be expected in 1995. It should be especially stressed that the cases recorded do not include any homicides.

20. The stiffening of penalties for xenophobic offences has certainly contributed to this result.

Annex IV

MEASURES TO COMBAT RACISM AND ANIMOSITY TOWARDS FOREIGNERS IN BERLIN

Situation in the reunified city of Berlin

1. The political changes that have taken place in eastern and south-eastern Europe since the disappearance of the inter-German frontier and the opening of eastern European frontiers have led to a major influx of immigrants from those regions into the Federal Republic of Germany. Berlin, as the European metropolis nearest to the east, and the city with the largest population of settled minorities coming from those countries, is particularly affected by immigration. The influx may perhaps tend to diminish but, depending on circumstances, it might increase still further.

2. The authoritarian structures built into society under the former German Democratic Republic, founded as they were largely on indoctrination and the rejection of everything foreign, have produced certain recognizable differences in the attitudes of the inhabitants of East Berlin as compared with their counterparts in West Berlin on the question of non-Germans residing in Germany. Most acts of criminal violence involving young Germans of the far right have occurred in East Berlin.

3. We cannot, however, label as xenophobic the entire population of East Berlin. The latest opinion polls show that the differences between East and West in terms of degree of open-mindedness towards foreigners have become less marked. It must, however, be noted that this open-mindedness does not, in the east, go as far as wanting to have closer contacts (for example, ties of friendship, marriage, etc.) with non-Germans.

Facts and figures

4. Berlin has a foreign population of about 11 per cent, or in absolute figures some 385,000 persons.

5. Only between 2 and 3 per cent of non-Germans live in the eastern part of the city; most of those are former contract workers from Viet Nam, Angola, Mozambique and Poland.

6. There are currently in Berlin some 45,000 refugees and asylum-seekers, most of whom are housed at emergency reception centres and receive a social security allowance.

Animosity towards foreigners, discrimination and tolerance

7. From the complaints lodged with the Office of the Commissioner for Migrants we can identify several areas in which ethnic discrimination has been in evidence. 15/ These findings correspond for the most part to those of the commissions for equality of chances and non-discrimination set up a few years ago in certain countries of Europe.

8. Acts of violence stemming from xenophobia or racism committed against persons or their property:

Inequality of treatment in access to employment and housing, in educational and occupational training institutions, and in community-based services and establishments;

Insults, humiliating treatment and threats of a discriminatory nature at workplaces or occupational training institutions, in the media and in certain political organizations;

Violence between young people of different nationalities and origins.

9. In comparison with other German cities, Berlin has a modest rating for acts of violence directed against foreigners or asylum-seekers. This is due to a number of factors:

A very long-standing tradition of cohabitation between Berliners of various nationalities and origins in West Berlin;

A municipal policy that accords much attention to aliens and to their integration into German society;

A public relations effort admired by other cities;

A large number of counselling centres and mutual aid organizations that deal with the problems specific to various non-German groups and subscribe to the ideals of intercultural understanding;

The preventive measures put into effect by the police and the readiness displayed by them to provide effective protection for premises housing asylum-seekers when threatening situations arise.

10. In spite of these relatively positive influences, the fact that foreign companies and businessmen continue to express worries about their safety in Germany cannot be glossed over. Particularly important for Berlin, it shows that, alongside objective safety, it is also essential to strengthen the subjective perception of safety among aliens in the city. That depends not only on effective protection by the police in threatening situations; it also requires tolerance and clear evidence of acceptance of foreigners in everyday life situations.

11. The Commissioner for Aliens recently expressed concern at the number of reports received concerning incidents in which non-Germans had been ill-treated or insulted, because of their ethnic origin, by Berlin police officials on duty - in one case anti-Semitic insults were cited. The Commissioner demanded an immediate explanation from the parties responsible. Judicial inquiries are being conducted, but have so far produced no result. Such incidents jeopardize the efforts exerted, with the Commissioner's backing, by the Berlin police to establish relations of mutual trust with the non-German population.

Ethnic discrimination in daily life - possible solutions

12. The vast majority of the complaints of ethnic discrimination reported to the Commissioner for Aliens concern inequality of treatment in daily life situations. They relate in particular to:

Inequality of treatment in access to employment and at the workplace;

Inequality of treatment in the spheres of education and occupational training;

Inequality of treatment in communal services and establishments (in particular discothèques and restaurants);

Discriminatory insults, humiliating treatment and threats at workplaces and places of study, in the media and in advertising, and on the part of political organizations and anonymous individuals.

13. Ethnic discrimination, for example inequality of treatment because of skin colour or country of origin, can be very easy to prove if the attributes of an offence are present. In most cases the victims have the law on their side. But more subtle methods of alienation, and unconscious or involuntary discrimination, often go unnoticed. Subjectively perceived affronts cannot always be proved. In view of the continuing wave of acts of violence stemming from xenophobia or racism which have produced a feeling of insecurity among ethnic minorities, it is understandable that even relatively minor incidents occurring in daily life situations represent, subjectively, a greater threat and carry a greater emotional charge than was the case a few years ago. Ethnic discrimination is only one of the many factors that play a role in conflicts, whether at the workplace, at school or when disputes arise between neighbours.

14. Intervention in individual cases under the "Project for non-violent intercultural understanding" of the Office of the Commissioner for Aliens aims at resolving conflicts by arbitration in order to reduce prejudices between neighbours and in schools. Long-term prevention serves the interests of public relations, as mentioned above.

15. For seven years the Commissioner for Aliens has been receiving complaints concerning discrimination against non-Germans, particularly young Turks, seeking admission to Berlin discothèques. The first few years' findings were evaluated in a survey whose results were presented in 1990. The survey workers came to the conclusion that the ethnic discrimination which is practised inside and at the entries to Berlin discothèques is very considerable. It was recommended to the Commissioner for Aliens that he should continue his usual practice, which is to follow up all complaints and press for the elimination of discrimination by holding talks with the discothèques' owners and mangers. In the most serious cases the district office can revoke the establishment's licence for failure to comply with the provisions of the Berlin restaurants' code.

16. In 1992, as in prior years, the Commissioner for Aliens had talks with the public authorities responsible for housing and with various employers in

order to promote equality for ethnic minorities in access to housing and employment and, in the situation currently prevailing, in the areas of work and securing accommodation. The federal employment office could not, however, be persuaded of the need to eliminate the indication "Alien: yes/no" in the computerized data files of the central employment office. This differentiation is of no interest to a commercial firm and is absolutely irrelevant to a candidate's qualifications for a job, but it does on the other hand constitute a manifest and inadmissible example of discrimination.

17. It emerges from discussions with the advertising departments of major newspapers that discriminatory indications such as "no foreigners" or "Germans only" have mostly been eliminated from the situations vacant columns.

18. As for the remarks and stereotypes corroborating prejudices that appeared in a series of economic publications, the Commissioner for Aliens roundly criticized the publisher, an effective proceeding that achieves results in most cases. On the other hand, effective counter-measures are difficult to devise for coping with the threats, general and specific (such as anonymous letters and notes), addressed to members of ethnic minorities and also to the Office of the Commissioner for Aliens. Judicial inquiries are instituted in every case after such incidents.

Measures applied in Berlin's various administrative services

Police department

(a) Planned restructuring of the police administration so as to ensure direct and continuous relations and meetings with migrants' organizations, representatives of minorities and advisory boards (this has already been discussed at police headquarters and the first steps have been taken);

(b) Development and implementation of reorientation courses for police, with the aim of professionalizing their behaviour in their dealings with minorities (improving their presentation and developing their sensitivity during their professional training are key elements). The police training department is already working on this project and is being advised by the Commissioner for Aliens.

Public services

(a) Campaigns to step up recruitment and placing of ethnic and cultural minorities in the government departments and municipal undertakings of Berlin State, as well as in the police. The civil service must show the way in this sphere.

Schools

(a) The project "Schools against violence", launched last year, features measures to combat xenophobia and racism through workshops, bringing-up of the subject in class, excursions to places of commemoration, and sensitization of teachers and outreach workers (by continuing education);

(b) Need to develop programmes of exchanges and meetings.

Youth groups

19. The municipal council's interdepartmental immediate action programme entitled "Youth with a future" deals with the problems of young people and can be considered as a preventive measure against animosity towards foreigners.

20. Noteworthy achievements:

Extension of the opening hours of youth centres during weekends and school holidays;

Utilization of schools for spare time activities;

Continuation and development of "street workers' programmes" (there are 17 teams working in the western districts of the city and 5 in the eastern districts);

Support through preventive measures in sport: for example, a project addressed to football fans and another concerning sports and backing for young people's sports clubs (in particular at Lichtenberg).

21. The following projects of the social affairs department of the municipal council (through which the Office of the Commissioner for Aliens operates) are of especial importance in the fight against racism and animosity towards foreigners:

The cultural workshop, located in Weissmannstrasse, creates possibilities of intercultural encounters, particularly for young people;

The programme "Youth with a future".

22. The tasks of the project "For non-violent intercultural understanding" are as follows:

Counselling and documentation on various cases of ethnic discrimination;

Discussions and arbitration in conflict situations;

Discussions with the public authorities responsible for housing, owners of discothèques, employers and competent representatives of the Berlin public services on the possibilities for dealing with conflicts, stress being laid on equality of treatment for non-Germans and ethnic minorities;

Assistance in the organization and guidance as to the content of the project "Youth against violence";

"Training courses to combat discrimination and violence" designed for young delinquents and outreach workers;

Aid to the "Independent interdepartmental board for the prevention and suppression of violence in Berlin";

Dissemination of information and public relations work (through continuing education courses, parents' nights, etc.) in schools and enterprises;

Working-out of suggestions for new legal regulations taking account of the initiatives undertaken at the national and European levels.

Educational efforts and preventive measures

23. In 1992, 20 "training courses to combat discrimination and violence" (minimum duration two days) brought together about 200 participants. These courses were prepared and held in cooperation with the auxiliary services and juvenile courts of the city districts. The participants were children, adolescents and young adults who had had brushes with the law for participating in acts of violence. The objective of these courses was to work out tactics on how to behave, with the young people, when faced with conflict situations. These ideas were also used, with certain modifications, at seminars held for teachers and social workers in 1992 and attended by a total of 110 participants.

24. At the end of 1990, young Berliners of various nationalities from all the city's districts took part in the project "Youth against violence" launched by the Commissioner for Aliens. The young people participating in this "anti-movement" want to draw attention to the escalation of violence in their age group and propose non-violent means for resolving conflicts. They are conscious of a growing need for such alternative means in order to counteract the propensity to carry weapons. The objectives of the project are announced through information material and meetings. Its "snowball" effect has resulted in the creation of new anti-violence groups in schools, recreational establishments, sports clubs, church communities, etc. The project is backed, logistically and as to its content, by the Commissioner for Aliens.

25. The project "For non-violent intercultural understanding" is aimed at schools (especially on theme days), business firms, parents' associations, youth groups, etc., which can thus obtain information on the relevant themes; presentations are given at courses of continuing training (especially for outreach workers). The need for information and discussion in this area is highlighted in two booklets published by the Commissioner for Aliens: "I have nothing against foreigners, but ..." (1991) scrutinizes the usual prejudices in an informative and reasoned way; "Saying no to violence" (1992) contains information on young Berliners in search of new standards and a new form of sociability in an intercultural environment.

26. A network of contacts in many Berlin schools through whom measures to combat discrimination and violence can be strengthened and extended is being built up. With the help of this network, it is hoped that in future the various cases of conflict and discrimination, many of which are submitted to the Commissioner for Aliens, can be resolved on the spot.

27. The project "For non-violent intercultural understanding" also provides for counselling of the victims of offences motivated by xenophobia and racism.

In 1992 some complaints were voiced concerning the late arrival or improper behaviour of policemen in response to emergency calls; those cases have not yet been fully elucidated.

28. The first suggestions regarding a new concept for the Berlin police have been worked out by the interdepartmental committee on "Berlin against violence" with reference to the treatment of ethnic and cultural minorities. They lay stress on continuing training and education, on contact between the police and minority organizations, on targeted publicity and on opening of the police force to employment of ethnic minorities, together with the appointment of a commissioner for aliens within the force.

29. Under the project "For non-violent intercultural understanding" it is planned to systematize the listing of complaints of racial discrimination, with the attendant circumstances, so as to be able to present at least a fairly general conspectus of proven cases of discrimination.

Notes

1/ Amnesty International, Federal Republic of Germany. Failed by the system: police ill-treatment of foreigners, May 1995.

2/ Pseudo-asylum-seekers are described as economic refugees and lumped together with de facto immigrants; this leads to a certain confusion between immigration and the right to asylum in official statements.

3/ Hubert Willems, Stefanie Würts, Roland Eckert, "La violence xénophobe: une analyse des structures des coupables et des processus présidant á l'escalade de la violence", report submitted to the Federal Ministry for Women and Youth and the German Science Fund, June 1993; published in Nouveaux dossiers sur la xénophobie en Allemagne", p. 104.

4/ Federal Government Press and Information Office; Nouveaux dossiers sur la xénophobie en Allemagne. Faits, analyses, arguments, Bonn, 1 July 1993, p. 11.

5/ It will be noted that the term rightist extremism is preferred to Fascist or racist activities.

6/ The information in this paragraph comes from a communication by the Federal Ministry of the Interior entitled "Report on the strength and membership of organizations under observation in 1994 by the authorities responsible for upholding the Constitution for rightist extremist activities, and on breaches of the law presumably or demonstrably motivated by rightist extremism or xenophobia", dated 19 September 1995.

7/ Federal Government Press and Information Office: Report on the status of foreigners in Germany. Xenophobia: facts, analysis, arguments, Bonn, January 1995.

8/ The statistics in this chapter come from the communication by the Federal Ministry of the Interior, op. cit.

9/ The Nationalistische Front (NF), Deutsche Alternative (DA), Nationale Offensive (NO), Wiking-Jugend (WJ), Freiheitliche Deutsche Arbeiterpartei (FAP).

10/ Kameradschaftsbund Wilhemshaven (by the Minister of the Interior of Lower Saxony); National Block (by the Ministry of the Interior of Bavaria); Freudeskreis für Deutschland (by the Minister of the Interior of North Rhein-Westphalia); Nationale Liste (by the Minister of the Interior of Hamburg); and Heimattreue Vereinigung Deutschland (HVD) (by the Minister of the Interior of Baden-Württemberg).

11/ The Bertelsmann Communications Group has launched a campaign on the theme "Bertelsmann for tolerance" and given financial assistance to relatives of victims of the fires in Sölingen.

12/ Report by the Federal Government Commissioner for Foreigners in the Federal Republic of Germany in 1993, Bonn, March 1994, p. 15.

13/ Ibid., pp. 73 and 74.

14/ See introduction to policy and legislation on foreigners in the Federal Republic of Germany, Bonn, Federal Ministry of the Interior, January 1991, p. 3.

15/ "Die Ausländerbeauftragte des Senats", translated here as Commissioner for Migrants, is a State office dealing with aliens and the difficulties they may encounter during their stay in Berlin. The Office also supplies detailed information brochures and free counselling services to the public.